

EXHIBIT

D

DEPOSITION OF JIMMY BARKER

January 23, 2006

Pages 1 through 205

**CONDENSED TRANSCRIPT AND CONCORDANCE
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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

MELVIN LOWE,
Plaintiff,

Vs. CIVIL ACTION NO.
2:05-CV-0495

MONTGOMERY COUNTY BOARD OF
EDUCATION; VICKIE JERNIGAN,
MARK LABRANCE, TOMMIE MILLER,
MARY BRIERS, DAVE BORDEN,
HENRY A. SPEARS and BEVERLY ROSS,
in their official capacities as
members of the Montgomery County
Board of Education; and DR. CARLINDA
PURCELL, in her official capacity as
Superintendent of the Montgomery County
Board of Education,
Defendants.

DEPOSITION OF JIMMY BARKER, taken pursuant to
stipulation and agreement before Pamela A. Wilbanks,
Registered Professional Reporter and Commissioner for
the State of Alabama at Large, in the Law Offices of
Hill, Hill, Carter, Franco, Cole & Black, 425 South
Perry Street, Montgomery, Alabama, on Monday, January
23, 2006, commencing at approximately 1:10 p.m.

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APPEARANCES

FOR THE PLAINTIFF:

Mr. William F. Patty
Ms. Tonya Dugas
BEERS, ANDERSON, JACKSON, PATTY & VAN HEEST
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Montgomery, Alabama 36104

FOR THE DEFENDANTS:

Ms. Elizabeth Carter
HILL, HILL, CARTER, FRANCO, COLE & BLACK
Attorneys at Law
425 South Perry Street
Montgomery, Alabama 36104

ALSO PRESENT:

Mr. Melvin Lowe

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STIPULATION

It is hereby stipulated and agreed by and
between counsel representing the parties that the
deposition of JIMMY BARKER is taken pursuant to the
Federal Rules of Civil Procedure and that said
deposition may be taken before Pamela A. Wilbanks,
Registered Professional Reporter and Commissioner for
the State of Alabama at Large, without the formality
of a commission, that objections to questions other
than objections as to the form of the question need
not be made at this time but may be reserved for a
ruling at such time as the said deposition may be
offered in evidence or used for any other purpose by
either party provided for by the Statute.

It is further stipulated and agreed by and
between counsel representing the parties in this case
that the filing of said deposition is hereby waived
and may be introduced at the trial of this case or
used in any other manner by either party hereto
provided for by the Statute regardless of the waiving
of the filing of the same.

It is further stipulated and agreed by and
between the parties hereto and the witness that the

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1 signature of the witness to this deposition is hereby
2 waived.
3
4 *****
5
6 JIMMY BARKER
7 The witness, after having first been duly
8 sworn to speak the truth, the whole truth and nothing
9 but the truth testified as follows:
10 EXAMINATION
11 BY MR. PATTY:
12 Q. Please state your name for the record.
13 A. Jimmy Barker.
14 Q. Mr. Barker, my name is Bill Patty, and I
15 represent Mr. Lowe in this case.
16 MR. PATTY: I'm going to mark for
17 the record Plaintiff's Exhibit
18 6. It's a 30(b)(6) notice of
19 deposition, and I assume we're
20 going to just take his deposition
21 and the 30(b)(6) deposition
22 together as one deposition, not
23 depose him on one and then depose

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1 MS. CARTER: Yeah. I don't have a
2 problem with that. If something
3 pops up that I think is
4 relevant -- I can't think of what
5 it would be that would need to be
6 some kind of separation for some
7 reason. So that's fine.
8 (Plaintiff's Exhibit 6 marked for
9 identification.)
10 Q. Let me show you Plaintiff's Exhibit 6 and ask
11 if you're prepared to testify on those areas
12 that are set out in that deposition notice.
13 MS. CARTER: It would be subject to
14 the objections that we made.
15 A. I am.
16 Q. Let me get some background information.
17 Can you tell me your date of birth?
18 A. January 28, 1950.
19 Q. And your educational background? College and
20 on.
21 A. I have a B.S. degree in mathematics from
22 Alabama State University in 1972, a master's
23 in mathematics education, 1976 I would say.

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1 Q. Where did you obtain that degree?
2 A. Alabama State University. I have an
3 educational specialist degree in mathematics
4 education in approximately '78 and a master's
5 in business administration from Auburn
6 University at Montgomery generally in the 1980
7 range and an administration certification from
8 Auburn University at Montgomery maybe in 1987.
9 Q. And tell me briefly your work history.
10 A. I've worked as a classroom teacher with
11 Montgomery Public Schools -- Well, let me go
12 back prior to that.
13 I spent two years immediately after
14 finishing college in the Armed Services in the
15 U.S. Army as a draftee.
16 Q. Did you get an honorable discharge?
17 A. Got an honorable discharge in October of
18 1974. I assumed a teaching position at Robert
19 E. Lee High School as a mathematics teacher in
20 October of 1974 upon leaving the service. I
21 remained in that position as a classroom
22 teacher until 1987 at which time I was
23 assigned as an administrative assistant,

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1 probably the more common vernacular is an
2 assistant principal, at Capitol Heights Junior
3 High School where I remained for the next six
4 years in the same capacity. In 1993 I was
5 promoted to principal of Brewbaker Junior High
6 School. I remained there for two years. In
7 1995 I was transferred to principal at Goodwyn
8 Junior High School. Remained there for three
9 additional years. In 1998 I was promoted to
10 the position that I currently hold, which is
11 assistant superintendent for human resources
12 with Montgomery Public Schools.
13 Q. Have you worked anywhere other than Montgomery
14 Public Schools? Anything on a part-time
15 basis?
16 A. On a part-time basis, I've worked at Auburn
17 University at Montgomery as a mathematics
18 instructor in the math department as an
19 adjunct and also in the same capacity at
20 Alabama State University.
21 Q. Did any of your educational background deal
22 with personnel management?
23 A. Specifically, no.

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Q. Do you have a teaching certificate?

A. Yes, I do.

Q. And what is your certificate in?

A. It itemizes those areas I just alluded to a moment ago: mathematics education as well as supervision and administration.

Q. Has your certificate ever been the subject of any discipline from the state department?

A. No.

Q. Have you ever been sued before?

A. As a representative of the school district, yes, I have.

Q. What was that case?

A. Well, there are several.

Q. Several? All right.

A. Yes.

Q. Give me the ones that you remember.

A. The ones that kind of stick out in my mind, EEOC complaints in terms of discrimination, whether it be on a racial basis or a gender basis. It kind of goes with the territory of being HR director that if you hire one gender, you get a suit from the other. If you hire

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one race, you get a suit from the other. So it's just kind of commonplace for me to get sued in one capacity or another.

Q. Well, how many of these lawsuits do you think there are or have been?

A. Maybe over the eight years, probably a half dozen.

Q. Do you recall the litigants, the individuals who brought the lawsuits?

A. Most recently there was a classroom teacher -- Well, most recently was Mr. Lowe's EEOC. That's the one that I remember most recently, the one that was -- dealt with an EEOC complaint. Prior to that there was a classroom teacher who was non-renewed at the end of the probationary period who claimed that she was non-renewed based upon her age because younger applicants received the position which she was non-renewed for.

Q. What's her name?

A. S-C-H-W-E-E-R-S. I can't pronounce that.

MS. CARTER: I'm going to let him answer these, but we don't waive

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our objection that there would not be relevance unless it was the same kind of allegations.

But anything that he can remember that was Title VII involved I don't have a problem with.

A. You're waiting on me?

Q. Uh-huh (positive response).

A. Let's see if I can recall. A David Burkett filed a suit against the school district saying that individuals of a race other than he and a gender other than he received favorable treatment in employment for coaching -- various coaching positions throughout the school district. Pam Cloud filed a lawsuit against the school district saying similar situations: race other than she received favorable consideration for administrative positions, assistant principals, school-wide instructional assistants. These are but four that are on the tip of my mind.

Q. Can you think of any others that were

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complaints, lawsuits or EEOC charges regarding discrimination?

MS. CARTER: That he's named in or just -- Okay.

A. I can't think of another just outright.

Q. Can you think of any lawsuits or matters that were maybe settled before a lawsuit where there's an allegation that you or someone in the school had retaliated against someone for exercising First Amendment rights?

A. No, I cannot.

Q. Do you recall any other lawsuits in your years with the school system that are not -- you weren't named personally but were lawsuits regarding discrimination claims?

A. Discrimination claims?

Q. Yes.

A. No. I don't specifically, no.

Q. In each one of these four you gave us -- Well, strike that.

The three that you gave us that's not

Mr. Lowe, were there any accusations that you did something actively in those cases?

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1 A. No.
 2 Q. I'm not really speaking of the school, but
 3 have you been sued personally other than these
 4 lawsuits?
 5 A. My name has been mentioned in the line of
 6 officers of the school district, but other
 7 than that, no. I haven't been sued
 8 personally, no.
 9 Q. I was getting more if you've been named as a
 10 personal defendant in any lawsuit.
 11 A. No.
 12 Q. Okay. Have you ever sued anyone?
 13 A. No, I have not.
 14 Q. Have you ever filed any complaints with the
 15 EEOC?
 16 A. No, I have not.
 17 Q. You were a little hesitant on that one. Can
 18 you explain that?
 19 A. There was a time when the superintendent was
 20 being hired -- the current superintendent was
 21 being hired. There was an effort to
 22 circumvent the process. I filed, along with
 23 another superintendent in the school district,

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1 paperwork to keep that process from going
 2 forward. It was not an actual EEOC claim. It
 3 was just filing to force the school district
 4 to follow the established procedure.
 5 Q. Was it a court filing? A lawsuit?
 6 A. It was a court filing.
 7 Q. Who else was involved in that suit with you?
 8 A. The other complainant was Lois Johnson,
 9 assistant superintendent.
 10 Q. And that was filed I guess after Mr. Carter
 11 was leaving and before Dr. Purcell was hired?
 12 A. That's correct.
 13 Q. Was that involved during the period I guess
 14 when there was some movement or some
 15 indication by the board they may be hiring
 16 Mr. Looney for superintendent?
 17 A. That is correct.
 18 Q. Any other court proceeding or actions have you
 19 filed?
 20 A. No, I have not.
 21 Q. Would this lawsuit have been filed here in
 22 circuit court or federal court?
 23 MS. CARTER: It was in federal

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1 court.
 2 A. Federal court.
 3 Q. Who was your attorney in that case?
 4 A. The attorney was Mr. Theron Stokes with AEA.
 5 Q. Do you have any relatives that live in south
 6 central Alabama over 19?
 7 A. I grew up in the Montgomery area, so I have
 8 various and sundry cousins and nephews and
 9 nieces. In my immediate family, my brother
 10 resides here in Montgomery.
 11 Q. What's his name?
 12 A. Napoleon Barker.
 13 Q. And are your parents still alive?
 14 A. No, neither of my parents are alive.
 15 Q. And Napoleon Barker, is he married?
 16 A. No. He's divorced.
 17 Q. Do you remember his former spouse's name?
 18 A. Annie Vicky Barker. It was Walker prior to
 19 being Barker.
 20 Q. Do you know where he works?
 21 A. He is confined in a nursing home.
 22 Q. Do you have any other siblings that live in
 23 Montgomery?

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1 A. No.
 2 Q. Any uncles or aunts that live in the
 3 Montgomery area?
 4 A. No.
 5 Q. When you say cousins, how many are we talking
 6 about?
 7 A. Cousins by way of marriage. My wife has --
 8 She also grew up in this area, and she has
 9 various nieces and cousins. All of them are
 10 related to me by marriage but not by birth.
 11 Q. What was your wife's maiden name?
 12 A. Queen Williams. Queen Ether Williams. And
 13 it's Ether, not Ester, as you would commonly
 14 expect.
 15 Q. Are her parents still living?
 16 A. No.
 17 Q. Does she have any brothers and sisters in the
 18 Montgomery area?
 19 A. She's an only child.
 20 Q. How do we get all the cousins then?
 21 (Off-the-record discussion.)
 22 A. She grew up in a household wherein there were
 23 eleven siblings, all of whom were technically

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her uncles and aunts. But she always referred to them as her sisters because they were of the same age, her sisters and brothers. That's where the offsprings come from.

Q. Can you give me just last names generally of the cousins?

A. Okay. Ware, W-A-R-E, Washington, several groups are in the Washington. McCall, Robinson. That's basically it.

Q. Do you belong to a church in the Montgomery area?

A. Yes, I do.

Q. What church is that?

A. Pilgrim Rest Missionary Baptist Church.

Q. Do you hold any officer positions in the church?

A. No --

Q. Leadership positions?

A. No, I do not.

Q. Do you have any children?

A. Yes, I do.

Q. Are any over 19?

A. Both.

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Q. Can you give me their names and ages please?

A. Jermyn, J-E-R-M-Y-N, Barker, 33 years of age. Resides in Atlanta, Georgia. Brandon Barker, 27 years of age. Resides in Hoover, Alabama.

Q. Do you belong to any organizations or clubs in the Montgomery area, south Alabama?

A. I'm a member of a fraternal group.

Q. What is that?

A. Omega Psi Phi Fraternity, Incorporated.

Q. Any other groups or clubs?

A. No.

Q. Are your sons married?

A. Yes, they are.

Q. What are their spouse's names?

A. Brandon's spouse is Koris, K-O-R-I-S. And Jermyn's spouse is Tammy.

Q. What is the process the board uses when it receives notice from an employee that they believe that they have been subject to discrimination?

A. Generally the person will register a complaint with a position -- with a person in a position of authority, such as an assistant

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superintendent or with the superintendent.

Most likely -- Most generally that person will pass that complaint along to HR, which I head up at this particular moment, and we will look into that complaint to see whether or not there's any validity to it.

Q. Does the person need -- Before an investigation is done by the school, does the person need to file an EEOC complaint or can they -- will the school look into it if the person simply comes to the school first and says, I have this complaint I'm making?

A. Generally the supervisor, principal, assistant principal, or whatever the person might be will get in touch with central office, HR. They will be directed by some means to get in touch with central office, and we will look into it to see whether or not that complaint is just that, a complaint, or whether or not it is a grievance. If it's a grievance, of course, we follow a prescribed procedure. And if it's a complaint, then, of course, we look into the matter, but we notify the individual

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that there's a distinct difference between the two.

Q. Y'all's policy and practice is to notify the individual after you get the document in about the grievance policy or grievance procedure?

A. No. If a person is saying that I have filed a grievance, for example, to clarify what I was saying, we look into -- Grievance procedures with Montgomery Public Schools require that you have violated some policy. Very often an individual will think that they have a grievance when in essence what they have is a complaint.

When they come to us filing a grievance or what they suspect to be a grievance and it does not rise to that level, we bring it to their attention. We will not place you in the protocol of a grievance hearing at this particular point because we see no essence with regard to a violation of policy. We bring that to their attention. Then we begin to look into the complaint by contacting the individuals who may be involved.

5 (Pages 17 to 20)

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1 Q. So you notify them that there's -- If y'all
2 determine it's not a grievance, then you
3 notify them that y'all have made that
4 determination because it doesn't violate
5 policy?
6 A. Yes, we do.
7 Q. And a complaint is you've got something you
8 don't like that's occurred, but it's not a
9 violation of policy?
10 A. Exactly.
11 Q. But you still investigate complaints?
12 A. We look into complaints.
13 Q. Now, is all that set out in writing?
14 A. The grievance policy is, yes.
15 Q. What about the complaint policy?
16 A. There's no formal documentation of the
17 complaint process.
18 Q. If somebody is filing a complaint or grievance
19 about something that occurred while they were
20 employed with the school but they are no
21 longer technically employed with the school,
22 what is the policy of the board to
23 investigating that complaint or grievance?

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1 A. Well, we look into it, but you have to
2 realize, Bill, that with 4200 employees, 5,000
3 when you count substitute teachers and
4 part-time employees, we average a complaint a
5 day. It's physically impossible to look into
6 every single complaint that you get. You're
7 going to get complaints from parents. You're
8 going to get complaints from employees. So we
9 get to those as we possibly can.
10 Q. Does a complaint that involves an allegation
11 of retaliation with a lawsuit have a higher
12 priority than somebody who is just complaining
13 about their kid's class schedule or something?
14 A. I would think so, yes.
15 Q. Would a complaint about retaliation with
16 regard to a lawsuit be one of the highest
17 priorities?
18 A. I would think so.
19 Q. Does the school have a policy against
20 retaliating against individuals for filing
21 EEOC complaints or for making a discrimination
22 claim to the school?
23 A. Restate that for me, if you would.

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1 Q. Does the school system have a policy against
2 retaliation against an employee for making an
3 EEOC complaint, bringing an EEOC lawsuit, or
4 making some complaint about the way that
5 they've been discriminated against with the
6 school?
7 A. Yes. Of course we do.
8 Q. In order to make something a grievance and to
9 go through the grievance procedures, does an
10 individual have to write the word "grievance"
11 on it?
12 A. Yes, generally. We require that there's
13 written documentation. Over the years since
14 I've been in this position from very early on,
15 we realized that you needed written
16 documentation anytime a grievance procedure --
17 a grievance was being registered simply
18 because we would have a tendency to begin to
19 look into a matter and then the person who is
20 making the complaint withdraws their
21 complaint. So with it in writing, you have
22 some authorization to move forward and follow
23 some formal process wherein word of mouth

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1 would get you in trouble.
2 Q. What if the person sets out various
3 allegations which are a violation of the
4 school's policies but they don't put on the
5 word, this is a grievance? Would that trigger
6 the grievance procedure?
7 A. No.
8 Q. It would not?
9 A. No.
10 Q. It would be a complaint, then?
11 A. It would be a complaint, something that we
12 would look into and seek some type of counsel
13 generally as to what course of action to
14 follow in that case.
15 Q. Seek some counsel. You mean with lawyers?
16 A. Possibly. One of the board attorneys or the
17 other.
18 Q. Now, what is the school's policy or the school
19 system's policy if a complaint or grievance
20 involves the HR department itself?
21 A. Generally if I get a complaint relative to the
22 operations of the HR department, I'm going
23 to -- if it has not already come to me by way

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<p>1 of the superintendent, I'm going to make the 2 superintendent aware. And invariably the last 3 two superintendents under whom I've served -- 4 Dr. Carter and Dr. Purcell -- they are going 5 to say, seek out legal counsel with regard to 6 where should we go from here. 7 Q. But who would do the investigation of the 8 complaint for the school system? Would the HR 9 department investigate itself? 10 MS. CARTER: Object to form. 11 A. As a grievance procedure, it's just of such 12 that -- I've just recently gone through a case 13 similar to this so I can tell you exactly what 14 I told that individual. If you're filing a 15 grievance against Montgomery Public Schools, 16 the grievance procedure starts at a level to 17 whom the person whom you're grieving against 18 reports. So if it's the HR department, you 19 would have to start your grievance procedure 20 with the superintendent. 21 Q. Right. 22 A. If it's the superintendent, you would have to 23 start your grievance procedure with the board</p>	<p>1 processes? 2 A. By and large -- I don't remember what her 3 exact testimony was, but by and large the 4 process goes like this: If a person applies 5 for a particular position, HR department's 6 first responsibility is to check to see 7 whether or not that person meets the minimum 8 qualifications for that particular position. 9 Then the supervisors who are going to 10 interview that person, whether they be a 11 principal, whether they be an assistant 12 superintendent or specialist, are given a list 13 of the individuals who applied for the 14 position in your department who meet minimum 15 qualifications. Then they are encouraged to 16 interview a representative sample based upon 17 review of resumes and make a recommendation 18 back to HR of your top candidates for that 19 position. Generally we do not allow them to 20 rank order on paper saying this is my first 21 choice, this is my second choice, this is my 22 third choice. These are my top three choices 23 for this particular position</p>
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<p>1 because the HR department has no authority 2 over the superintendent. 3 Q. Sure. But what if it's a complaint? Who is 4 going to investigate the complaint if the 5 complaint is against the HR department? 6 A. Generally we will assure those to whom we 7 report, such as the superintendent, the 8 validity -- from our perspective the validity 9 of the claims against us, whether or not it 10 has any validity -- the complaint has any 11 validity and show them and tell them what our 12 particular position is on whatever the issue 13 is that is being complained about. 14 Q. Is there any policy by the school system to 15 provide for somebody else outside the HR 16 department to investigate a complaint relative 17 to the HR department? 18 A. There's no policy, no. 19 Q. Now, the superintendent described hiring 20 processes with regard to certified personnel. 21 While you have been at the Montgomery County 22 School System, has that been -- is she correct 23 in the way she's described those hiring</p>	<p>1 However, there are generally follow-up 2 conversations wherein you might make it known 3 to someone in HR, well, I really prefer this 4 person. I understand that, but give me your 5 top three choices so that I may submit them to 6 the superintendent along with their resume, 7 and then the superintendent may very well get 8 back with you and find out, well, who is your 9 first choice or who is your second choice. 10 That does happen in an informal process, but 11 on paper, these are my top three choices. 12 Q. Would it be correct to say that the hiring 13 practices of Montgomery County dictate making 14 every effort to follow the recommendations of 15 department heads, supervisors and/or any 16 interview panel for positions posted with the 17 school system? 18 A. Unless there are mitigating circumstances, 19 yes. 20 Q. What kind of mitigating circumstances? 21 A. Such as there are screening panels on occasion 22 that are used to say, well, this category of 23 applicant here is highly recommended as</p>

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1 opposed to this category here is recommended
2 with some concern to make sure that they meet
3 certain specificities. They very well may
4 meet the overall posted qualifications. A
5 screening committee may very well be necessary
6 in order to separate them into tiers of highly
7 recommended, not highly recommended,
8 recommended with concern, things of that
9 nature. That's not out of the ordinary.
10 Q. What job classifications use screening panels
11 and what do not?
12 A. Most recently the reading coaches and the math
13 coaches in the school district.
14 Q. When did the reading coaches start using
15 screening panels?
16 A. Let's see. Our ARFI grant application, which
17 is Alabama Reading First Initiative, started
18 in the late summer of '03. Thereafter, in an
19 effort to control the quality level of the
20 applicants --
21 (Brief interruption.)
22 Q. I'm sorry. Go ahead.
23 A. In an effort to control the quality level of

1 not required to do so because that was a
2 distinctively different function than the
3 reading coach.
4 Q. How is a reading tutor different from a
5 reading coach?
6 A. Both are clinical in nature. The reading
7 tutors were designed primarily to pull out
8 students who were at-risk students at a given
9 school site and work with them on an
10 individual basis to try to bring them from one
11 level, maybe intensive, up to another level.
12 They were encountering some difficulties.
13 The reading coaches worked with teachers
14 in order to bring about the same desired
15 change. They worked individually
16 prescriptively with the teachers to bring
17 about the necessary changes to bring larger
18 groups of students along from an area of being
19 at risk to one that is not at risk or to make
20 academic gains with larger groups of
21 students. But that was the distinct
22 difference. The coaches worked with the
23 teachers, tested, gave feedback, that type of

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1 the applicants from the standpoint of having a
2 knowledge base that was going to be needed in
3 order to get that program off and running, we
4 initiated the screening panels, which
5 generally consisted of specialists in that
6 particular area: ed specialists that are
7 assigned there at the school district,
8 assistant superintendents who may be over a
9 program who were over the curriculum and
10 instruction program. Those were the screening
11 panels. I even participated on one of the
12 screening panels myself along with Mike
13 Looney who was the assistant superintendent
14 for curriculum and instruction.
15 Q. So when did reading coaches start being --
16 having screening panels?
17 A. It would have had to have been fall of '03.
18 The reading program as we know it in
19 Montgomery Public Schools got off the ground
20 late summer of '03 until today.
21 Q. Did the reading tutors also go through those
22 kind of panels?
23 A. The tutors by and large did not. They were

1 thing, and the teacher-tutors worked with
2 students by definition.
3 Q. You said something -- You mentioned something
4 about a requirement that was not there for
5 reading tutors but was for reading coaches for
6 panels. Whose requirement are you referring
7 to that the screening panel be used?
8 A. This is Montgomery Public Schools' --
9 Q. This is no federal --
10 A. No.
11 Q. -- mandate that you do that for reading
12 coaches?
13 A. No.
14 Q. No state department mandate?
15 A. No.
16 Q. And so it's your testimony reading coaches
17 have gone -- all the reading coaches then
18 would have gone through this screening process
19 from the fall of 2003?
20 A. In one form or another. The composition of
21 the screening committee may not have been the
22 same. For example, when you were selecting
23 system-wide reading coaches, the initial ARFI

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1 application had basically the assistant
2 superintendent for curriculum and instruction
3 in place and the ARFI grant had an
4 administrative officer for that particular
5 program. Teresa Nichols assumed that.

6 In the early stages of selecting the next
7 system-wide reading coach, those were the two
8 individuals who had any position of knowledge
9 as it related to the program. They
10 constituted the screening committee. Then
11 they brought on the first system-wide reading
12 coach, Teresa Jackson. They participated in
13 that process. Once she came aboard, she sat
14 in on the subsequent committee to select the
15 system-wide reading coaches that were to
16 report to her. After they got on, then we had
17 the specialists within curriculum. For
18 example, the committee that Mr. Lowe was to
19 submit to to interview with was comprised of
20 specialists from curriculum and instruction
21 department.

22 Q. Who was the committee that he --

23 A. I may leave somebody out, but there was Connie

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1 Mizell. There was Sharon Sewell. There was
2 Tom Toleston. There was Ms. Days (phonetic),
3 Sherry Days. And myself and Mike Looney were
4 in and out on those. We would -- We may not
5 have sat through the entirety of all of them,
6 but we sat in just to ensure that proper
7 procedure was being followed.

8 Q. Which committee are you referring to where
9 Looney would have been on?

10 A. The committee wherein possible reading coaches
11 for the school district were being screened.

12 Q. What time frame is that?

13 A. For schools -- Let me retract that. Not for
14 the reading district, for schools -- for
15 individual schools. This was -- Let's see. I
16 would say at the end of -- during the summer
17 of '03 going into '04 or the summer of '04
18 going into '05. The summer of '04 going into
19 '05.

20 Q. Would --

21 MS. CARTER: Summer of '04 going
22 into '05?

23 A. The summer of '04 going into '05, when

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1 Mr. Lowe applied for the position of reading
2 coach -- No. It was '04 -- It would have been
3 the summer of '05, the summer of '05, the one
4 wherein he applied for the position for
5 consideration with Paterson Elementary School.

6 Q. Well, Looney wasn't an employee of the school
7 system then, was he?

8 A. Mr. Looney left us at the end of that same
9 summer. Mr. Looney just left us at the end of
10 the '04-'05 school year just after Dr. Purcell
11 came aboard. If you recall, she came aboard
12 in December of '04. Mr. Looney left leaving
13 for another county during that following
14 summer.

15 Q. Well, when did Lowe go through this -- you say
16 he went through in the summer of '05 this
17 Paterson position with Dr. Owens. Do you
18 remember when that was in the summer of '05?

19 A. No, I can't remember. I'm sure that they have
20 documentation.

21 Q. But you remember Looney was on that committee?
22 MS. CARTER: Object to form.

23 A. I remember that Mike Looney participated in

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1 that screening process in and out just as I
2 was because I sat in with him on many
3 occasions, yeah.

4 Q. The committee's interviews, do they take
5 notes? Do they keep those notes in a file on
6 what they found in that interview process?

7 A. They took notes. They had a grading rubric
8 and everything. I'm sure that they may even
9 still have those notes. Connie Mizell headed
10 up that committee, so I would just have to
11 touch bases with her to see whether or not she
12 actually had them. I can't speak for her, but
13 they had a grading rubric. That was my
14 purpose of being there, to make sure we were
15 asking the exact same questions of all of the
16 applicants, that we were following protocol as
17 it relates to good interview procedures.

18 Q. So the questions they were asking were
19 standardized questions?

20 A. They had them scripted.

21 Q. Do y'all still have a copy of those questions?

22 A. I would check with them just to be sure. I
23 would say -- I would expect them to, yes.

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1 Q. Do they make documentation of how they scored
2 everything?
3 A. I'm quite sure they probably do.
4 Q. Does the school system keep that?
5 A. Yes. They would not have been kept in my
6 department, in HR. It would have been kept by
7 the committee, which was headed by Connie
8 Mizell, so it would be a matter of my touching
9 bases with her and asking her to reproduce
10 those individual grade sheets for all of the
11 applicants.
12 Q. I'm jumping a little bit ahead, but since
13 we're there I'm going to ask you. What did
14 Mr. Lowe score? Do you know?
15 A. I don't recall specifically his score. They
16 didn't give me -- I didn't say, well, what did
17 this particular individual make and what did
18 that particular individual make. Basically
19 what I assured the principals of was this: If
20 you want to interview for a reading coach, the
21 screening committee has already placed certain
22 categories of individuals -- certain
23 individuals in certain categories based upon

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1 how well they faired in that screening
2 process. Touch bases with them to ensure that
3 you know whether or not this particular
4 individual comes in a highly recommended
5 position or whether they are recommended with
6 some concerns, did not do as well as some of
7 the other applicants in that overall screening
8 process, and then interview from among those
9 individuals who have been approved and then
10 make the recommendation back to HR in terms of
11 the person whom you might want based upon your
12 interview.
13 Q. Do you remember where Mr. Lowe fell in that?
14 Was he highly recommended?
15 A. He was not.
16 Q. Recommended with concerns?
17 A. When I -- As was standard with me, if a person
18 was recommended as a reading coach, my first
19 thing was to check with the screening
20 committee and see is this person among those
21 individuals who were recommended highly by the
22 committee. They couldn't control the
23 selection of that person, but I wanted to

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1 ensure that we had someone who had a basic
2 knowledge of what was expected of them once
3 they got in a reading coaching position who
4 had demonstrated in a screening process that
5 they were high in the order of selectivity by
6 that screening committee. And that's all I
7 would assure with them.
8 And if they said, well, yes, this is one
9 of our top performers, then, of course, I
10 would take that for what it was worth. If
11 they said, no, then I would get back in touch
12 with that principal and say, well, this person
13 was okay. He passed -- He or she passed the
14 initial requirements for this particular job;
15 however, they are not in the highly
16 recommended position, do you need a list. Do
17 you need a modified list of the individuals
18 who were in there. That was my standard
19 procedure.
20 Q. Did Lowe pass?
21 MS. CARTER: Did he what?
22 Q. Did he pass? You said some individuals may
23 pass, but they may not be highly recommended

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1 Did Lowe pass?
2 A. I may have used that out of context, the
3 passed and the not passed. Whether or not
4 they were highly recommended or whether they
5 were recommended with concern. When I touch
6 bases with Connie Mizell, for example -- When
7 Mr. Lowe's name was submitted to me, I got
8 with Connie Mizell. My next thing was,
9 Connie, these are the individuals who have
10 been recommended for the coaching position at
11 Paterson. You know what our concerns are with
12 regard to getting the very highest quality for
13 Paterson Elementary because they did not
14 perform well last year. There was some
15 concern. Is this an individual who was in the
16 top echelon of your screening process. No,
17 Mr. Barker, for this reason, this reason, that
18 reason, et cetera.
19 I get on the phone and I call up Dr. Owens
20 and I tell him, this is the feedback that I've
21 gotten from the screening committee; will you
22 consider some of the other applicants who
23 are -- faired better in that grading rubric

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1 when the applicants were screened. Yes,
 2 Mr. Barker, I'll do so; have Ms. Mizell get in
 3 touch with me and give me the names of some of
 4 those individuals who were in the upper
 5 echelon of that grading rubric.

6 I had Ms. Mizell get in touch with
 7 Dr. Owens, give him those names. He
 8 rescreened those particular applicants,
 9 according to what he told me.

10 Q. And did he at the end of that want Mr. Lowe to
 11 be his employee?

12 A. At the end of that, he e-mailed me or sent me
 13 a hard copy -- something to the effect that I
 14 still want Mr. Lowe as my top choice for that
 15 coaching position.

16 Q. And then what happened after that?

17 A. At that particular point, then Mr. Lowe's name
 18 was submitted along with two others, the
 19 person who ultimately ended up with that
 20 particular position, because a comparative
 21 analysis was done of their academic strengths
 22 and weaknesses. Basically what happened was
 23 this: Ms. Freeney -- Eleanor Freeney, who was

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1 A. No.

2 Q. -- or getting what he wants this time?

3 A. Not to my recall. Definitely not.

4 Q. Eleanor Freeney, is she white or black?

5 A. She's black.

6 Q. And she had taught four through six grades as
 7 a reading coach before?

8 A. As a reading teacher. As an elementary
 9 teacher.

10 Q. Had she ever worked as a reading coach?

11 A. Not to my knowledge, no.

12 Q. Had she ever received the training of a
 13 reading coach?

14 A. I cannot say. I don't know. I don't think
 15 so.

16 Q. Had she worked as a reading tutor?

17 A. I don't recall.

18 Q. And her highest degree she had at that point
 19 was a master's degree?

20 A. Right.

21 Q. Where did she get her master's degree?

22 A. I don't recall, Mr. Patty.

23 Q. She had taught for how many years as a reading

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1 selected for that position, was about a
 2 15-year -- she was hired by the school
 3 district back in the '80s -- the late '80s. I
 4 don't remember the exact year. She had an
 5 excellent screening score from the screening
 6 committee. She had worked exclusively with
 7 grades four through six at Brewbaker
 8 Intermediate School for the past four or five
 9 years, the exact grade levels that was being
 10 filled for that particular position. She had
 11 a master's degree. She was highly qualified
 12 in reading, highly qualified in elementary
 13 education. She met all the criteria. She was
 14 among those three who were being recommended
 15 by Dr. Owens. She obviously was our top
 16 candidate, having all of those things that I
 17 just mentioned to you.

18 Dr. Owens came back and said, well, if I
 19 can't have Mr. Lowe, Ms. Freeney is the next
 20 person I would like to have. That's when we
 21 exercised that option.

22 Q. Did you ever tell Connie Mizell that Dr. Owens
 23 wasn't getting who he wants this time --

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1 teacher?

2 A. She had taught as an elementary schoolteacher
 3 for -- She had worked consecutively with the
 4 school district from the late '80s. I want to
 5 say maybe '87, the time that she was hired, up
 6 until that particular time -- She had 15 years
 7 experience at the time. Fifteen plus.

8 Q. And you say there were -- Your testimony is
 9 that you took two names and Mr. Lowe's name.
 10 And then I didn't understand. Did you make
 11 the decision that Ms. Freeney was a successful
 12 candidate or how did -- When you got these two
 13 names and Mr. Lowe's, where did it go from
 14 there? I didn't --

15 A. Three names from Mr. Lowe -- I mean, three
 16 names from Dr. Owens. Once I received those
 17 back -- Well, when I initially received the
 18 recommendation from Dr. Owens, I discussed
 19 with Dr. Purcell because she had mentioned to
 20 me when she placed Dr. Owens there at that
 21 particular position that she wanted to put
 22 together the strongest possible academic team
 23 that she could for that school because they

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1 had been at risk and their test scores were
2 down from the previous year.
3 Well, it's my job as HR director or the
4 assistant superintendent for HR to be as
5 familiar with the personnel that's out there
6 as I possibly can. Dr. Owens came from a
7 secondary background, secondary history, never
8 having taught an elementary subject. He had
9 been principal of an alternative site whose
10 primary focus was behavior modification, not
11 academics -- you didn't keep kids long enough
12 to focus on academics -- whose total
13 population average daily attendance was ten.
14 So he couldn't effect any real, meaningful,
15 outstanding academic program. The kids aren't
16 there. The focus is not there.
17 Mr. Lowe came from this same setting most
18 recently, his familiarity with Dr. Owens.
19 Dr. Owens in good faith recommended him for
20 the position, but it's my position as
21 assistant superintendent to have enough
22 oversight to know whether there's wisdom in
23 your recommendation process. You may very

1 setting, at least give him the benefit of your
2 knowledge in terms of trying to ensure that
3 he's going to be successful there.
4 Q. I guess I'm reading what you're saying.
5 You're not saying Dr. Owens was not qualified
6 to act as a principal?
7 A. No, I'm not. He had the certification, K
8 through twelve for principalship, supervision
9 and administration K through twelve. So he
10 was definitely qualified to do that job.
11 Q. Certainly if y'all didn't think he could do
12 the job, y'all could have terminated him?
13 A. Yeah.
14 Q. That's an option?
15 A. We could have.
16 Q. Now, let's back up a little bit. I still
17 didn't get from you -- You said at some point
18 this committee -- you get some names from
19 them, and you talk back to Dr. Owens. He
20 still says he wants Lowe, and you take Lowe's
21 name and two other names. I didn't get where
22 you went from that.
23 A. I go back to the superintendent at that

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1 well feel that you're recommending the very
2 best person for it. But from my knowledge
3 base, it's my responsibility to say, well, the
4 background is not there. Dr. Owens, you don't
5 have the academic background in elementary
6 education; let's get somebody who has some
7 extensive background in elementary education
8 as your second person in charge so that we can
9 try to staff this school as effectively as we
10 possibly can.
11 Q. Why did y'all pick Dr. Owens as a principal?
12 A. Dr. Owens is a contract principal who had just
13 come from an elementary setting, be it not the
14 most pronounced academic setting, but he had
15 just come from an elementary setting, and the
16 law requires that we place him -- that we
17 place him in some similar setting as he was
18 the prior year. Not to say that he could not
19 do the job but that he had not had the
20 demonstration of that simply because he hadn't
21 been placed in that type setting before. If
22 you're going to place him there, as the law
23 required that we do, place him in some type

1 particular point, and I discuss the pros and
2 cons of the individuals who were on that three
3 recommendation. This is my recommendation as
4 assistant superintendent to you, Dr. Purcell,
5 in line with your philosophy of trying to
6 place the strongest academic team there that
7 you possibly can.
8 Q. So you recommended Eleanor Freaney?
9 A. I did.
10 Q. So it didn't happen like this, that Mr. Lowe
11 was brought up as recommended by the principal
12 and that was presented to the superintendent,
13 but you've notified the superintendent that
14 they had not gone through the process, and
15 then you came back after that process with
16 names of people who were generated from that
17 process, not Mr. Lowe, and the superintendent
18 picked from that group?
19 A. Let me clarify what I think you said, now.
20 Q. Yeah.
21 A. When he was recommended -- When Mr. Lowe was
22 among the three individuals recommended to me,
23 it was clear -- I don't want to give any

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<p>1 distortion of that. It was clear to me that 2 he was the preferred candidate by Dr. Owens. 3 I then go to the superintendent and say I have 4 a recommendation on my desk for Mr. Lowe, 5 among two others, and this is the person who 6 Dr. Owens wants for the position. 7 The superintendent inquires of me, is 8 there anything that would prevent us from 9 offering that position to him -- to Mr. Lowe. 10 And then I say, well, there are some 11 problems. The problem is he's not in the 12 upper echelons of the individuals who were 13 recommended by the screening committee. 14 Mr. Barker, have you talked extensively 15 with the screening committee, something along 16 that line. I'm not quoting her. Yes, I've 17 talked with Connie Mizell; I've gotten her 18 down in my office, and we have talked about 19 the pros and cons; she has pulled his 20 evaluation sheet and told me that he is not 21 the strongest candidate. There are some other 22 candidates that faired better than he in this 23 particular process.</p>	<p>1 first time you went to her if they hadn't gone 2 through -- if Dr. Owens had not gone through 3 this interview process and you given him names 4 and then he interviewed them and all that? 5 How did you get two names initially to go to 6 her with? 7 A. He had originally interviewed individuals whom 8 he considered to be eligible for the 9 position. From my understanding, he called up 10 Mr. Lowe out of some loyalty to him from 11 having been a former faculty member of his and 12 said, have you been placed yet. This is 13 basically as much as I recall about his 14 conversation with me. He said, I called up 15 Mr. Lowe and asked him if he wanted to 16 interview for the position, having some 17 familiarity with him. And I assume that's how 18 Mr. Lowe's name got on his recommendation 19 list, his not knowing at that time who were 20 the top candidates who were recommended for 21 this particular position by the screening 22 committee and who were not. Ms. Freeney's 23 name was not on the original recommendation</p>
Page 50	Page 52
<p>1 Then Dr. Purcell said, well, have you made 2 Dr. Owens aware of this. Yes, I've made him 3 aware, and I've had Connie Mizell to get in 4 touch with him and give him the names of some 5 of the these stronger candidates. Then at 6 that particular point, of course, he 7 reinterviewed and he came back with this 8 recommendation. And, of course, consistent 9 with what we've done in the past, we can 10 choose from among these three. Based upon my 11 feelings with regard to who is best qualified, 12 then I'm recommending Ms. Freeney for this 13 particular position. That's the way it 14 basically goes -- it went. 15 Q. So you did go to the superintendent twice with 16 this -- 17 A. I went to her initially to make her aware that 18 his name had been submitted among two others, 19 and I went back to her after Dr. Owens 20 resubmitted and said that this is the person I 21 still want for that position. So I made her 22 aware of the fact. 23 Q. Well, where did the two names come from the</p>	<p>1 list. Her name was added to the list after 2 the names had been submitted by Connie Mizell 3 as these are the top candidates from the 4 screening process. 5 Then Dr. Owens goes back and interviews 6 those individuals who were submitted on that 7 list. He adds Ms. Freeney's name among the 8 three individuals who were being recommended 9 for it at that time. 10 Q. But the two individuals with Lowe's name the 11 first time, are you saying Dr. Owens just came 12 up with those two on his own? 13 A. I'm not sure exactly how -- what process he 14 followed in that. I'm not sure -- 15 Q. They didn't come from the committee? 16 A. They didn't come from the committee. I'm not 17 sure of how he came up with Mr. Lowe's name, 18 other than the fact that he said he did stay 19 in contact with everyone from his prior 20 school. 21 Q. Now, is there anything else you can tell me 22 about Ms. Freeney's qualifications that would 23 be better or more desirable than Mr. Lowe's?</p>

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1 A. Nothing other than what I mentioned to you
 2 before, you know.
 3 Q. Does Mr. Lowe have the minimum qualifications
 4 of degrees, education, for the position?
 5 A. It merely required an elementary
 6 certification.
 7 Q. So he did?
 8 A. Yes. Or a certification in reading, one or
 9 the other, and he had the elementary
 10 certification.
 11 Q. And he had performed this job for the
 12 principal -- Well, strike that.
 13 He worked for Dr. Owens prior to applying
 14 for this job. He had worked for him for two
 15 previous years?
 16 A. Yes, he had.
 17 Q. And were you aware that Dr. Owens evaluated
 18 him and put down he was a reading coach?
 19 A. No, I'm not aware of that. It would, as a
 20 matter of fact, surprise me because of the
 21 conversations that we had had earlier when
 22 Mr. Lowe was first hired there.
 23 (Plaintiff's Exhibit 7 marked for

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1 identification.)
 2 Q. I'll show you what I'll mark as Exhibit 7.
 3 Are you familiar with that document?
 4 A. Yes, I'm familiar with this document.
 5 Q. What is that?
 6 A. This seems to be a professional development
 7 plan which is one of the instruments that goes
 8 along with our PEPE evaluation which is the
 9 adopted method of evaluating personnel
 10 throughout the school district.
 11 Q. Does it indicate the position that Mr. Lowe
 12 has in that document?
 13 A. It does.
 14 Q. What does it indicate his position is?
 15 A. It says reading coach.
 16 Q. And the principal, Dr. Owens, would have been
 17 the one preparing that document, evaluating
 18 him?
 19 A. It says the evaluator is Dr. James Owens, yes.
 20 Q. Now, your meetings with the superintendent
 21 where you give her the rankings or you give
 22 her your recommendation, is that in writing?
 23 A. Sometimes they would be in writing. Sometimes

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1 I would merely take the printout of the e-mail
 2 that I receive from that principal -- You have
 3 to realize that many times these are around
 4 the roundtable, eight o'clock at night.
 5 Everybody else has gone home, and the
 6 superintendent and I are sitting there going
 7 over a hodgepodge of various things. So that
 8 wasn't a definitive procedure that we followed
 9 all the time.
 10 Q. What about in Mr. Lowe's case? Do you know if
 11 any of your conversations with the
 12 superintendent or your meetings with the
 13 superintendent or your recommendations to the
 14 superintendent regarding Mr. Lowe are in
 15 writing?
 16 A. I just don't recall.
 17 Q. Would you keep that in a file? Where would
 18 that be kept?
 19 A. No. If I submit them to her, there -- I have
 20 a file folder that just says recommendations
 21 to the superintendent. Most likely I would
 22 have some copy of it.
 23 Q. And then any kind of correspondence you

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1 receive from the principal, would that -- how
 2 would that be kept if he's saying I want this
 3 person or that person for a job?
 4 A. One of two ways. They would generally submit
 5 something on a letterhead from their school or
 6 they would send it to me more commonly by
 7 e-mail.
 8 Q. And how is that kept? When you get that, what
 9 do you do with it?
 10 A. I either download it so I have some record
 11 that they sent it and then clear it out so as
 12 not to --
 13 Q. Does it go to their personnel file or --
 14 A. No, it does not go to the personnel file.
 15 Q. It goes to a file that you maintain there in
 16 the office?
 17 A. Yeah. Generally recommendations to the
 18 superintendent.
 19 Q. When we first started talking about the hiring
 20 process with certified personnel, you
 21 indicated that there's an interview with the
 22 principal, and then you check the minimum
 23 qualifications. And then there's I guess a

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1 sample that's put together that goes to the
2 superintendent for her to decide?

3 MS. CARTER: Object to form.

4 A. Now, the sequence may be reversed.

5 Q. Lay it out there again for me.

6 A. Generally if I know that a particular
7 applicant is applying for a given position, we
8 check their qualifications before the
9 principals receive a list and say, well, this
10 list of individuals have applied for your
11 position; we've checked out their credentials
12 and they've met the minimum qualifications.

13 However, we don't have total control of
14 that process. An applicant, Mr. Lowe or
15 anyone else, may very well find out that a
16 particular position is being posted, take some
17 initiative on their behalf and contact the
18 principals themselves. So I may have to check
19 the credentials out after the interview
20 process as opposed to before simply because
21 they've been proactive in terms of contacting
22 the principals themselves. If we know ahead
23 of time, we check the credentials out and save

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1 for an employee was not followed through?

2 A. Since Dr. Purcell -- I'll put that in two
3 tiers. Since Dr. Purcell has been here,
4 roughly a little over a year ago, I can't
5 remember a specific position wherein I did not
6 recommend to her the person -- one of the
7 three people who were recommended by the
8 committee.

9 When Dr. Carter was superintendent, there
10 were occasions wherein -- I can't remember the
11 specifics of them, but I know that there were
12 occasions wherein these are the three people
13 recommended for the position; these are the 15
14 applicants who meet the minimum
15 qualifications, and Dr. Carter might exercise
16 the option of recommending one of those people
17 who were not among the top three. But the
18 rationale in my mind as to why that happened
19 was because Dr. Carter was familiar with the
20 rank and file even better than I was and knew
21 basically the qualifications of the various
22 individuals, so he felt comfortable in going
23 outside those three. Dr. Purcell basically

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1 the principals that agony of having to select
2 and interview someone and they may not meet
3 the qualifications. But we don't always know
4 ahead of time.

5 Q. It's not uncommon for a principal to say, I'd
6 really like to hire this person here or that
7 person for a particular job, is it?

8 A. It's not. It's not.

9 Q. Now, once the principal comes back and says, I
10 like this person or that person, do you still
11 take a sample of persons to the superintendent
12 or do you just take the principal's choice?

13 A. We take a sampling for most positions. If
14 they are teaching positions and teaching
15 positions are going to be multi over a given
16 period of time, we generally won't require
17 that you give me three people for this fifth
18 grade position that you have. These are
19 generally positions that are contested-type
20 positions, ones that are above the teaching
21 level.

22 Q. Can you think of any situations or any other
23 incidences where a principal's recommendation

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1 had to get to know everybody.

2 Q. Well, can you think of any -- I understand you
3 say that you can't think of anywhere where she
4 hasn't chose from the group of three. Can you
5 think of any instance where a principal has
6 said I want this person and Dr. Purcell has
7 not hired the person the principal wants?

8 A. I cannot, simply because I'm not privy to any
9 conversations that she might have with the
10 individual principals. If you recall from my
11 earlier testimony, I would say, well, give me
12 your top three as is required; give me your
13 top three; you may convey to the
14 superintendent -- You may call the
15 superintendent up and articulate to the
16 superintendent, well, I feel strongly about
17 person A or person B. They don't always share
18 that with me because I force them not to. I
19 force them to keep it somewhat on an even par
20 with these are my three top candidates. But
21 nothing is going to prevent you from calling
22 the superintendent up and saying, well, I feel
23 strongly about person A as opposed to person

15 (Pages 57 to 60)

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1 B.
 2 Q. Are you saying, though, that it's not -- it's
 3 uncommon for a principal to say, I want to
 4 hire -- I've looked at these applicants and I
 5 want to hire so-and-so? Don't principals do
 6 that all the time? Say I -- They tell you I
 7 want to hire this person or I favor this
 8 person or I like this person the best?
 9 A. On some occasions they may very well do that.
 10 But my instructions to them in general are you
 11 know that I cannot take one recommendation to
 12 the superintendent. Give me your top three
 13 choices so I may submit those. If you feel
 14 strongly about a particular person among them,
 15 I encourage them to call up the superintendent
 16 and let her know. Where I'm at a disadvantage
 17 is, I don't know who does and who doesn't.
 18 Q. Did you tell Dr. Owens to call the
 19 superintendent?
 20 A. No. I told him that I was going to articulate
 21 to the superintendent who his choice was. He
 22 made that known to me who his choice was. As
 23 I told you, some will tell me, some will not.

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1 I try to discourage any of them from doing
 2 so. But Dr. Owens was explicit that he wanted
 3 Mr. Lowe as his first choice for the position.
 4 Q. When did you first learn of the EEOC charge
 5 that Mr. Lowe filed?
 6 A. It's hard for me to say exactly to put it in a
 7 time frame. It was prior to the
 8 superintendent getting here, and she got here
 9 in December of '04. So I guess it must have
 10 been fall of '04 or late summer of '04.
 11 Q. And did you talk to Dr. Owens about that at
 12 all?
 13 A. About the EEOC charge?
 14 Q. Uh-huh (positive response).
 15 A. Absolutely not.
 16 Q. When did you find out that Mr. Owens -- Lowe
 17 had filed a lawsuit in this case?
 18 A. This lawsuit?
 19 Q. Yes, sir.
 20 A. I don't remember specifically. I just don't.
 21 The chronology of it just doesn't register
 22 with me.
 23 Q. Did you ever talk to Dr. Owens about this

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1 lawsuit?
 2 A. Yes, I did. I talked to Dr. Owens when I
 3 called him up to set up times with him to
 4 appear for depositions.
 5 Q. I'm not -- I'm really more talking about,
 6 let's say, prior to June 22, 2005.
 7 MS. CARTER: Let me say something
 8 for the record because we don't
 9 mind -- I don't mind you knowing
 10 this. I think that I told
 11 Mr. Barker that Mr. Lowe's
 12 lawsuit had been filed because we
 13 knew he had an EEOC charge. So
 14 it would have been right after it
 15 was filed. I just don't know
 16 when that is.
 17 MR. PATTY: That's fine.
 18 Q. Did you ever talk to Dr. Owens prior to June
 19 22, 2005 about Mr. Lowe's lawsuit?
 20 A. Definitely not.
 21 Q. Did you ever tell Dr. Owens that Mr. Lowe
 22 shouldn't have filed a lawsuit?
 23 A. Absolutely not.

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1 Q. What did you do -- What was your role in
 2 preparing a response to the EEOC charge?
 3 A. Well, I have to do all of the research with
 4 regard to the various allegations of the EEOC
 5 charge and respond to the various questions
 6 that were being asked.
 7 Q. Would you have been the person for the school
 8 system to provide the factual information for
 9 the response to the EEOC charge?
 10 A. Yes, I was.
 11 Q. Did you look at the response? I know it was
 12 written from your attorney, but have you
 13 looked at the EEOC response?
 14 A. I did.
 15 Q. And is it accurate?
 16 A. As best I recall. I don't have it here before
 17 me right this second. Yes, I assumed that it
 18 is 100 percent accurate.
 19 Q. Has anything happened since that time that you
 20 think is now incorrect that you've learned
 21 after the EEOC charge that you said, hey, we
 22 found out this was not right?
 23 A. Not to my knowledge, no.

<p style="text-align: right;">Page 65</p> <p>1 Q. Is the reading coach a ten-month position?</p> <p>2 A. There's no cut-and-dry answer to that.</p> <p>3 Reading coaches -- The evolution of reading</p> <p>4 coaches in our school district came in three</p> <p>5 tiers primarily. With the original</p> <p>6 application for the ARFI grant, there were, if</p> <p>7 I recall, ten reading coaching positions that</p> <p>8 were ten-month reading coaching positions</p> <p>9 because the coaches had to be trained.</p> <p>10 Shortly thereafter the next year or within</p> <p>11 the next year, MPSRI sponsored reading</p> <p>12 coaches. Montgomery Public Schools Reading</p> <p>13 Initiative reading coaches were authorized.</p> <p>14 Those were ten-month positions. Then there</p> <p>15 were reading coaches who were sponsored</p> <p>16 through the individual Title I budgets of</p> <p>17 Title I schools who were brought aboard as</p> <p>18 nine-month reading coaches because they didn't</p> <p>19 have the resources to pay them ten months. So</p> <p>20 there were some that were nine months and some</p> <p>21 that were ten months based upon the fund</p> <p>22 source and the resources available to fund</p> <p>23 those units. All of the ARFI and all of the</p>	<p style="text-align: right;">Page 67</p> <p>1 reading coach position available; I do have a</p> <p>2 teacher/tutor position available; are you</p> <p>3 interested in that teacher/tutor position.</p> <p>4 That clarification was made prior to Mr. Lowe</p> <p>5 accepting that position. He knew fully well</p> <p>6 that that was a teacher/tutor position,</p> <p>7 according to the conversation that I had with</p> <p>8 his principal. He said he told him this is</p> <p>9 not a reading coach position; this is a</p> <p>10 teacher/tutor position; are you still</p> <p>11 interested. And the feedback he gave to me,</p> <p>12 yes, I am.</p> <p>13 Q. When were the dates of the ten-month -- the</p> <p>14 RC ten-month reading -- well, the ten reading</p> <p>15 coach positions that were ten-month positions,</p> <p>16 the first level you said?</p> <p>17 A. ARFI?</p> <p>18 Q. Yes.</p> <p>19 A. This was at the end of the summer of '03 going</p> <p>20 into '04, the '03-'04 school year. This was</p> <p>21 the first year of our reading program.</p> <p>22 Q. The MPS reading coach authorized ten-month</p> <p>23 positions, that second level you said, when</p>
<p style="text-align: right;">Page 66</p> <p>1 MPSRI were ten months. There was not a</p> <p>2 reading coach assigned to Daisy Lawrence where</p> <p>3 Mr. Lowe was assigned.</p> <p>4 Q. Ever?</p> <p>5 A. There was not a reading coach assigned there</p> <p>6 by MPSRI or by ARFI. There may have been</p> <p>7 coaches who were -- There was not anyone</p> <p>8 assigned permanently to that campus. There</p> <p>9 may have been someone who may have been</p> <p>10 providing partial services, but there was not</p> <p>11 a reading coach assigned there.</p> <p>12 Mr. Lowe's position that he received there</p> <p>13 as a teacher/tutor was a federally funded</p> <p>14 Title I type position, and it was a nine-month</p> <p>15 position. It was not a reading coach position</p> <p>16 but a teacher/tutor position.</p> <p>17 Let me clarify something for you, Bill.</p> <p>18 When Mr. Lowe initially sought out that job,</p> <p>19 he went to Dr. Owens, according to what</p> <p>20 Dr. Owens said to me, and inquired about a</p> <p>21 reading coach position. Dr. Owens told him I</p> <p>22 do not have a reading coach position --</p> <p>23 according to what he told me, I do not have a</p>	<p style="text-align: right;">Page 68</p> <p>1 did they start?</p> <p>2 A. Sometime during that same year when funds were</p> <p>3 solicited from the county commission,</p> <p>4 Montgomery Public School Reading Initiative.</p> <p>5 Those funds came throughout that particular</p> <p>6 year.</p> <p>7 MS. CARTER: What year? I'm sorry.</p> <p>8 THE WITNESS: '03-'04.</p> <p>9 Q. The individual Title I budget nine-month</p> <p>10 positions, when did that start?</p> <p>11 A. The nine-month positions -- There were always</p> <p>12 Title I funds that were allocated to various</p> <p>13 schools. I couldn't give you a definitive</p> <p>14 time frame as to when that initially started</p> <p>15 because the schools had been getting Title I</p> <p>16 funds all along. The key issue with Title I</p> <p>17 is that there could be no supplanting. By</p> <p>18 that I mean this: If a school wanted a Title</p> <p>19 I reading coach and was not already allocated</p> <p>20 a reading coach from one of these other two</p> <p>21 sources, they could not have that individual</p> <p>22 because Title I cannot be the first kid on the</p> <p>23 block. It has to be in addition to. It has</p>

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1 to be supplemental. And therefore if a school
2 requested and they already had one of the
3 other two, I could give them that Title I --
4 let them use that Title I money for that
5 purpose. If they requested that and did not
6 have one of these other two, they could not
7 because it was a clear supplanting violation.
8 Daisy Lawrence did not have a coach from
9 the other two funds. They would not qualify
10 for a Title I reading coach because it would
11 be supplanting.
12 Q. Well, would there be a -- when did Title I
13 start using, though, for these nine-months --
14 when did that begin, using the Title I for
15 those?
16 A. As early on as when ARFI started. Some of the
17 ARFI schools would have more --
18 Q. '03?
19 A. -- than one.
20 Yeah. They would have an ARFI coach and
21 they would have a Title I coach. And they
22 might very well make that Title I coach in
23 addition to the ARFI. And the Title I may be

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1 a nine-month and the ARFI may be a ten-month.
2 And they would pay the Title I supplemental
3 funds for the summer in order to get the
4 training and that type thing.
5 Q. Was Lowe ever -- Was his name ever listed on
6 any documents regarding the financial payments
7 the school was receiving for his position as a
8 reading coach? Was he ever designated as a
9 reading coach?
10 A. I couldn't say. Not to my knowledge.
11 Q. Do you know how the position that he applied
12 for in the fall of -- and received in the fall
13 of 2003 at Daisy Lawrence, do you know how
14 that was advertised?
15 A. It was advertised as a teacher/tutor position.
16 Q. We've received a number of documents from
17 y'all with job descriptions. Was that
18 advertisement in that material we received?
19 A. It was. It was listed as a Title I
20 teacher/tutor at various Title I sites. It
21 was not listed specifically to Daisy Lawrence.
22 Q. How would I know that that's the job
23 advertisement for that position? Is there

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1 documentation that tells me that?
2 A. No. You just have to take my word for it.
3 (Off-the-record discussion.)
4 MS. CARTER: I didn't understand
5 what your question -- Oh, you
6 mean because it says various
7 locations how do you know that
8 posting in fact related to that
9 location?
10 MR. PATTY: Yes.
11 A. It would give you some sense of reassurance
12 the timing of it. The timing of that
13 particular posted notice was right at the end
14 of the summer, and Mr. Lowe came aboard in
15 October -- early October of that same year.
16 Q. Wouldn't there have been also, though, that
17 same summer a posting that said for reading
18 coaches, various locations? Wouldn't there be
19 that kind of posting as well?
20 A. Generally there may have been back near the
21 first of the summer, yeah.
22 Q. Did Mr. Lowe interview through any committee
23 for that teacher/tutor position?

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1 A. I don't recall, because at the time most of
2 the elementary placements were being handled
3 through one of my subordinates in the office.
4 Q. When did you get district reading coaches?
5 A. In the initial application process, as I told
6 you before, Teresa Nichols was the only,
7 quote, unquote, reading official other than
8 the superintendent -- assistant superintendent
9 for curriculum and instruction. Shortly
10 thereafter they brought aboard whom I
11 considered to be the first reading coach,
12 which was Teresa Jackson. That person was
13 interviewed for by Dr. Looney and Teresa
14 Jackson.
15 Q. Was she a district --
16 MS. CARTER: Teresa Nichols you
17 mean.
18 THE WITNESS: Yeah, Teresa Nichols.
19 A. She was district. She was the first reading
20 coach that we had that was applicable to the
21 entire district. She was actually third guru
22 in charge of our reading program after she was
23 selected.

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1 Q. When was that?

2 A. That was early on in the process. Maybe late
3 summer '03 or very early -- latest, early fall
4 '03. But I think late summer '03.

5 Q. Would she have been called a district reading
6 coach or would she have been called something
7 else?

8 A. I don't remember the exact nomenclature that
9 we used. After that, then, of course, the
10 others were interviewed for -- there were
11 screening committees involving the principle
12 players for the reading program for the
13 selection of the other reading coaches. That
14 was Connie -- I mean, that was Teresa
15 Jackson. That was Teresa Nichols. That was
16 Mike Looney. That was Margaret Allen, who was
17 a fund source for some of the -- for one of
18 the district reading coach positions. She was
19 in control of the Title II funds which was
20 going to fund one of those. All four of those
21 individuals I know sat in on that screening
22 committee when the original other district
23 reading coaches were selected.

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1 Q. Back before Mr. Lowe came back as a
2 teacher/tutor, did you have a conversation
3 with him and his mother where you informed him
4 about the reading coach positions being open?

5 A. I don't recall. I remember having an audience
6 with Mr. Lowe and his mother on a different
7 occasion. I remember them coming to my
8 office, but the specifics of that conversation
9 just escapes me to tell you the truth.

10 Q. When he came back to Daisy Lawrence in the
11 fall of '03, he was coming from Bullock
12 County. Did you have any conversations with
13 any officials at Bullock County about him
14 coming back to Montgomery, what he was going
15 to do?

16 A. I had a conversation with Mr. Lee Arthur
17 Ballard, which is protocol among HR circles.
18 I did not discuss with him any specific
19 assignment that he was to have with Montgomery
20 Public Schools. Merely that conversation was
21 along the lines of, Mr. Lowe has applied for a
22 position with Montgomery Public Schools. We
23 have a gentleman's agreement that we do not

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1 raid each other for talent. If Mr. Lowe is
2 offered a position with Montgomery Public
3 Schools, are you going to perceive it as
4 tampering with regard to our entertaining the
5 possibility of hiring him. That basically is
6 the conversation -- That was the essence of
7 it, which is a conversation that happens
8 between me and other HR directors throughout
9 the contiguous counties all the time. We just
10 don't raid each other.

11 Q. But do you recall telling him that you were
12 hiring Mr. Lowe as a reading coach?

13 A. I don't.

14 Q. Do you recall telling anyone else with Bullock
15 County Board of Education that Mr. Lowe is
16 being hired as a reading coach?

17 A. I spoke with no one else from Bullock County
18 other than Mr. Ballard.

19 Q. Do you recall putting together a copy of
20 Mr. Lowe's personnel file for Ann Sipial,
21 director?

22 A. By and large that's not something I would do.
23 That's something I would delegate to my

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1 secretary.

2 Q. So your secretary would be the one to copy it
3 and put it together?

4 A. Most likely.

5 Q. Do you know if -- Do you recall that that
6 happened, that Ann Sipial requested a copy of
7 Mr. Lowe's personnel file?

8 A. I cannot say with certainty. I get requests
9 all the time from various outlets. I just
10 don't recall.

11 Q. Do you recall if there were personnel items
12 that are now in his personnel file that were
13 placed in the personnel file at a much later
14 date than his original personnel file --
15 placed at a much later date than they were
16 generated?

17 A. No. I don't have any knowledge of that at
18 all.

19 Q. Do you recall if there maybe were things
20 placed in his personal file post lawsuit or --

21 A. Not to my knowledge. Unless they were results
22 from the lawsuit or from the EEOC claim that
23 were ongoing at that time. I would place some

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1 documentation in there later on once we got a
2 ruling.
3 Q. And y'all would not maintain two personnel
4 files, right?
5 A. Definitely not.
6 (Brief off-the-record discussion
7 followed by a brief recess.)
8 Q. (Continuing by Mr. Patty) Does the school
9 system have a policy with regard to providing
10 personnel file information to the principals
11 for an employee? For instance, if an employee
12 has some prior incident or allegation that has
13 been investigated and that is kept in their
14 personnel file, does the school system have a
15 policy about whether they will provide that to
16 a subsequent principal that employee is
17 working with without it being solicited by
18 that principal?
19 A. Do we have a policy of providing -- Generally
20 our policy with regard to your personnel file
21 is that whether you review it or whether you
22 authorize someone else to review it, that
23 person has to sign saying I've reviewed the

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1 documents on this particular file on this
2 particular day so nothing is added to it or
3 taken from it unknown to us.
4 Q. Would it then violate the board's policy if
5 someone copied materials from that personnel
6 file and sent it to a principal without that
7 principal asking for those materials?
8 MS. CARTER: Object to form.
9 A. That's kind of vague. From the standpoint
10 that if a principal were to ask, for example,
11 is John Doe highly qualified; do you have any
12 verification that he's highly qualified; does
13 he have a valid teacher's certificate for this
14 particular grade --
15 Q. No. I'm not saying it's something the
16 principal has asked for. Let's say there's
17 something that is of an investigation that has
18 been done or a letter of reprimand or prior
19 suspension of an employee, and that employee
20 is working for a principal -- another
21 principal after that fact. Is it appropriate
22 or does it violate board policy for someone to
23 send that principal personnel file information

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1 about that past situation when it's not asked
2 for by the principal?
3 A. I don't know if it's a violation of a written
4 policy, but it's definitely not good business
5 to share that with another principal, no.
6 Q. Are you aware of the reprimand letter that was
7 written to Mr. Lowe regarding Southlawn being
8 sent unsolicited to Dr. Owens?
9 A. No, I'm not.
10 Q. Who would have access to that personnel file?
11 A. HR department primarily would have access to
12 it, the specialist within the department. Of
13 course, myself being the assistant
14 superintendent. The specialist within that
15 department. We have a director for certified
16 personnel, Carolyn Hicks. We have ed
17 specialists within that determine, and we have
18 various clerical support individuals in that
19 office.
20 Q. Do you ever recall Dr. Owens making any
21 inquiries through your office for information
22 regarding Melvin Lowe, that he wanted to know
23 something about his employment background or

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1 his work there in the school system or
2 anything of that nature?
3 A. I don't.
4 Q. Now, we were provided during discovery some
5 investigation documents regarding Southlawn.
6 Did you conduct that investigation?
7 A. I did.
8 Q. Did Tina Minott conduct an investigation as
9 principal prior to you conducting your
10 investigation?
11 A. One of the requirements for any type of action
12 of that nature is that the principal sends an
13 investigative summary of what the allegations
14 are and what they have been able to discern
15 prior to making the recommendations to the
16 board.
17 Q. Did Tina Minott's investigation clear Melvin
18 Lowe?
19 A. No. Her purpose is not to clear or to
20 corroborate the charges. Her purpose is to
21 provide all the information to my office so
22 that a determination can be made as to the
23 guilt or innocence of the person.

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1 Q. Do you remember if Tina Minott was supportive
2 of Melvin Lowe?

3 A. I don't recall specifically.

4 Q. Did she believe the allegations true or
5 untrue? Do you recall?

6 A. I just don't recall.

7 Q. Did Tina Minott recommend that Mr. Lowe
8 receive any discipline?

9 A. That's not her purpose to recommend whether or
10 not. The disciplinary end of it generally
11 will come from after I have reviewed all the
12 information, all of the student statements,
13 looked into it. I make a recommendation to
14 the superintendent based upon those
15 observations.

16 Q. But often is it not true -- We've had some
17 termination cases before that you and I have
18 been involved in that the principal will
19 recommend particular action take place.

20 A. Oh, yeah. There's an exuberance on behalf of
21 our principals in a lot of cases that breach
22 protocol. I mean, we have to --

23 Q. I'll have to remember it breaches protocol.

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1 The last time it didn't breach protocol.

2 Anyway, did Tina Minott make any
3 recommendation disciplinary-wise in this case?

4 A. I'd have to review it. I have it in his file
5 at my office, but I don't remember the
6 specifics.

7 Q. What was the result of that investigation?

8 A. If I recall correctly, there was a
9 preponderance of circumstantial evidence.
10 There was evidence in which we watched the
11 videotape recordings, and it showed Mr. Lowe
12 confronting a particular student. It showed
13 him hovering over that particular student. It
14 didn't show specifically his hitting or
15 pushing that student up against a wall. But
16 it was in three-second segments, and there
17 were little breaks there. You would see here
18 and you would see there. There were a lot of
19 circumstantial-type evidence with regard to
20 that. I recommended to the superintendent
21 that I could not say with 100 percent
22 certainty that the things Mr. Lowe had been
23 accused of that he had done, but I felt sure

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1 to a degree from observation on there that
2 something had transpired. And I recommended a
3 five-day suspension without pay because this
4 was the third time that I had spoken to
5 Mr. Lowe over the past several years with
6 regard to possibly mishandling a child.

7 Q. Let me show you what I'm going to mark as
8 Plaintiff's Exhibit 8 and ask you if this is
9 the complete investigative file regarding the
10 Southlawn matter.

11 (Plaintiff's Exhibit 8 marked for
12 identification.)

13 A. This seems to be rather comprehensive. This
14 seems to be the file that I would have on file
15 in that school file there at my office, yes.

16 Q. As you sit here today, can you think of any
17 documents that are not in this file?

18 A. It was so long ago, I couldn't say with any
19 degree of certainty whether there were any
20 other witness statements or anything of that
21 nature.

22 Q. Did Tina Minott want to rehire Mr. Lowe for
23 the next school year?

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1 A. I can't say whether she did or not, but she
2 did not recommend him to me.

3 Q. So she did not make a recommendation to you to
4 rehire him?

5 A. Right. She didn't make a recommendation to
6 rehire him or to dismiss him to my recall.

7 Q. She didn't make a recommendation to non-renew
8 him?

9 A. No. That was not her -- You mean as a result
10 of this investigation?

11 Q. No, sir. Just at the end of the school
12 year --

13 A. At the end of the school year, she did make a
14 recommendation. It would have been in the
15 conference notes where she comes down at the
16 end of the year and gives me a review of the
17 performance of each individual who she has
18 recommended for non-renewal. I would have
19 thought she would have made that
20 recommendation. I cannot say with 100 percent
21 certainty that she did as I sit here today.

22 Q. Are you saying that it's the standard practice
23 that the principal would make a recommendation

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1 of who they wanted to non-renew or to renew;
2 you don't really remember specifically which
3 way she went on that?
4 A. I don't.
5 Q. Do you remember Superintendent Carter having
6 any input as to whether to non-renew or renew
7 Melvin Lowe?
8 A. I don't remember specifically.
9 Q. What conversations did you have with
10 Superintendent Carter about this file, about
11 this situation at Southlawn?
12 A. I don't remember the conversation, but there
13 is a letter in there of my recommendation to
14 him at that particular time. It was general
15 practice if a person were up for any type of
16 disciplinary action or proposed disciplinary
17 action that I would review the specifics of
18 the case with the superintendent, knowing
19 fully well that the final position on whether
20 or not those actions were going to be taken
21 rest with the superintendent. It was my
22 responsibility to give them all the facts as I
23 had ascertained them and then let them make a

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1 decision on what actions to take thereafter
2 Q. So you sitting here today can't say who was
3 the person that would have recommended that
4 Mr. Lowe be non-renewed?
5 A. I'm sitting here telling you that the only
6 person who had that authority was the
7 superintendent.
8 Q. Sure, to make the official authority. But
9 we've talked about how obviously often, as
10 Dr. Purcell expressed today, the
11 superintendents follow the recommendations of
12 other individuals. That being the case, do
13 you know of anyone who recommended that Melvin
14 Lowe be non-renewed at the end of the school
15 year where this incident is supposed to have
16 occurred?
17 A. I couldn't tell you with any degree of
18 certainty.
19 Q. Do you know if there would be any other
20 documents, such as -- You said that sometimes
21 principals fill out a form. Do you know
22 if there's a -- would that documentation be
23 kept where Tina Minott may or may not have

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1 recommended him to come back?
2 A. She may very well have a copy of it.
3 Q. Tina Minott?
4 A. Yeah. I can't say for sure. There's a form
5 that they would submit to us as the assistant
6 superintendent and say, well, these are
7 individuals whom I want to have discussions
8 with you relative to non-renewing for next
9 year. And they would itemize those person's
10 names. Whether or not I still have that form
11 on file, I can't say for sure, but I can check
12 for you.
13 Q. What about the position that he held? Someone
14 was hired to replace that position; is that
15 right?
16 A. That he held ...
17 Q. At Southlawn.
18 A. I assume so, yes, sir.
19 Q. So the non-renewal was not because there was a
20 lack of a position?
21 A. I can say that with some degree of certainty,
22 right.
23 Q. Do you know why he was non-renewed?

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1 A. I don't remember the specifics of it. I have
2 discussions with the superintendents in terms
3 of what is the most prudent course to take
4 with regard to personnel all the time. I
5 couldn't say with any degree of certainty
6 exactly what that conversation might have
7 been.
8 Q. Have you looked for any documentation that you
9 may have regarding that non-renewal?
10 A. No, I haven't.
11 Q. Do you know if Tina Minott asked to reemploy
12 Mr. Lowe in the summer following his
13 non-renewal?
14 A. Not to my recall.
15 Q. Did Melvin Lowe request to be reemployed with
16 the school that summer?
17 A. I think he did. I think he requested for us
18 to reactivate his file which would have given
19 an indication that he wanted to be considered
20 for employment. I don't remember him
21 specifically asking about specific positions
22 thereafter.
23 Q. Do you know -- Who would have made the

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1 decision not to hire him or who would have
2 been involved in the decision not to hire him
3 that summer for the Southlawn position that he
4 previously held?

5 A. Assuming that he applied and that she
6 recommended him for that position, then we
7 would have gone through the normal protocol.
8 We would have gone through the protocol of it
9 coming through HR, and with HR taking no
10 exception with it, then recommending it to the
11 superintendent and then the superintendent to
12 the board.

13 Q. And would there be a record of that?

14 A. No. Not for a teaching position, no.

15 Q. You don't have any recollection of either
16 Mr. Lowe asking to be reemployed in his
17 previous position at Southlawn or Tina Minott
18 wanting to reemploy him in that position?

19 A. No.

20 Q. Do you recall any conversations you would have
21 had with Mr. Lowe in that year after he was
22 non-renewed at Southlawn?

23 A. I do not.

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1 Q. Do you have any knowledge or information about
2 this incident that's outlined in Exhibit 8
3 other than what we've got before us? Are
4 there any facts or information that you know
5 about that is not in the memos and the
6 letters?

7 A. Not that I'm aware of.

8 MS. CARTER: I was just going to say
9 I think he said he viewed a
10 videotape, and it's not part of
11 Exhibit 8.

12 Q. Right. Other than the videotape?

13 MS. CARTER: I was just going to
14 clarify.

15 A. Not to my knowledge.

16 Q. Who has the videotape?

17 A. I don't know whether there are any -- what the
18 storage capacity -- whether those are erased
19 at the end of each year and they start over or
20 whether they keep those in storage. I don't
21 know enough about it, Bill, to answer with any
22 degree of certainty.

23 Q. Were you ever aware that Mr. Lowe's mother had

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1 made an EEOC complaint or had ever filed any
2 EEOC lawsuit in the past?

3 A. As I sit here before you now, I cannot say
4 that I'm not aware of it. I was not aware of
5 it until Mr. Lowe filed his complaint and
6 referenced that as one of the reasons of
7 retaliation against him. It was totally
8 unbeknownst to me. I was not aware his mother
9 had ever filed any action against the school
10 district at that time.

11 Q. What about have you and Mr. Carter --
12 Superintendent Carter ever talked it?

13 A. No.

14 Q. Have y'all ever talked about, that you can
15 recall, Mr. Lowe or his mother?

16 A. Well, obviously we talked about Mr. Lowe from
17 the standpoint when I would make a
18 recommendation to him like disciplinary
19 actions, those types of discussions. And I'm
20 sure that I mentioned it to him with regard to
21 when he was assigned to the RISE program, his
22 first assignment with us, when he was cited
23 for paddling kids inappropriately. It was

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1 routine for me to discuss any type of proposed
2 disciplinary action or conference that I was
3 going to have of that magnitude where there
4 may be some job action incurred with the
5 superintendent.

6 Q. What about with regard to the summer before
7 Mr. Lowe returned to Daisy Lawrence? Did you
8 have any conversations with Superintendent
9 Carter then about Mr. Lowe?

10 A. Not to my recall. Not to my recall.

11 Q. Tell me about the -- You said there were two
12 other complaints besides Southlawn. What are
13 the other two complaints?

14 A. Well, Mr. Lowe was assigned as a teacher at an
15 alternative education site that was referred
16 to under the acronym of RISE at the time.
17 There was an administrator assigned there by
18 the name of Mrs. Erodean Jeeter. Complaints
19 came to us relative to Mr. Lowe paddling
20 students without just authority. I talked, if
21 I recall correctly, with Mrs. Jeeter, and I
22 talked with Mr. Lowe concerning these
23 particular allegations. He assured me that it

23 (Pages 89 to 92)

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1 was not taking place, and that was the
2 documentation with regard to that counseling.
3 You cannot paddle unless you are an
4 administrator or you're an agent of that
5 administration. Go over the particulars with
6 him, review the policy.
7 On the next year when he was assigned to
8 Fitzpatrick Elementary School, I received a
9 complaint that was from his principal,
10 Mrs. Vera Thompson, saying that she had
11 received complaints from parents that he was
12 rough handling their children in his
13 classroom. Mrs. Thompson asked that I get
14 Mr. Lowe down and talk to him concerning this
15 particular matter, which I did, once again
16 reminding him of what is proper procedure and
17 what constitutes physically handling a
18 particular child and what safeguards you must
19 follow. Those were the other two situations
20 that I recall.
21 Q. I did not see anything in the nature of a
22 written warning or reprimand or anything in
23 his personnel file regarding the situation

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1 with Jeeter and the RISE program. Do you
2 recall if there was anything of that nature?
3 A. I don't think that there was any written
4 reprimand in that case. It sufficed for me to
5 have the conversation with him and tell him
6 basically what is acceptable and what is not
7 acceptable. If you are paddling children
8 without proper authority, cease and desist. I
9 am not, Mr. Barker, paddling children. I had
10 no proof other than the allegations on behalf
11 of the complaining parent.
12 Q. Was there any documentation of your meeting
13 with him or your investigation?
14 A. There may be a calendar indication if I were
15 to pull out a calendar back that far, if I
16 have a calendar back that far, but no other
17 documentation.
18 Q. What about with Fitzpatrick? Is there any
19 written reprimand there?
20 A. I don't think that there's any written
21 reprimand. I would have documented it in his
22 personnel file. There was just dialogue back
23 and forth between his principal and myself

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1 after I spoke with him about that particular
2 issue, but no written documentation.
3 Q. So he didn't receive a reprimand or warning or
4 anything with regard to the Fitzpatrick?
5 A. No, he did not.
6 Q. How was Mr. Lowe's PEPEs? Do you recall?
7 A. I have not had the opportunity to review
8 them. I don't know.
9 Q. Do the PEPEs go over classroom control,
10 classroom conduct?
11 A. Yes. I think there's an item on the PEPE that
12 attests to your ability or your demonstrated
13 ability during that particular observation to
14 control your classroom, but that's a 55-minute
15 setting. You record what you see. No
16 generalities can be drawn on that PEPE
17 instrument.
18 Q. Right. You have a certain session you're
19 monitoring to evaluate them through the PEPE
20 process, and you do that at different
21 intervals during the school year, right?
22 A. That's correct.
23 Q. Some of those are announced and some of them

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1 are unannounced, right?
2 A. That's true.
3 Q. And then obviously if you want to take any
4 other kind of discipline, you can always send
5 somebody a written reprimand or a written
6 warning or suspend them as happened with
7 Southlawn. There's other things you can do as
8 well; is that right?
9 A. That's true. That's available to us on the
10 central office level, not the principal's
11 level.
12 Q. Sure.
13 (Plaintiff's Exhibit 9 marked for
14 identification.)
15 Q. Let me show you what I'm going to mark as a
16 collective exhibit, Exhibit 9, and ask you if
17 those are Mr. Lowe's PEPE evaluations. Those
18 would just be the years with Jeeter and
19 Thompson.
20 A. They appear to be for Mrs. Thompson at
21 Fitzpatrick and Mrs. Erodean Jeeter at the
22 RISE program.
23 Q. And he made scores that were passing scores at

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1 those two places? He made passing scores?
2 A. Well, it depends on what you mean by passing.
3 They seem to have been fairly good feedback.
4 There were some 2s. There were some 3s. 2s
5 are areas that need improvement. There are
6 more 3s than there are 2s on most of the
7 ones. However, each one that I saw had some
8 areas that were 2s and some that were 3s.
9 Q. But don't you have a cumulative score that
10 you've got to exceed a 20?
11 A. I think you do have to make a score of 21 or
12 above to say that you have successfully gone
13 through that evaluation process.
14 Q. And he met those scores, didn't he?
15 A. Yes. I think so in each case. Let me
16 double-check again. I only see one instrument
17 where they were totaling, and on that
18 particular instrument he made 23 which is
19 above that 21 minimum passing score.
20 Q. Do you recall -- I'll try to take it somewhat
21 chronological. Let's go up to the end of
22 Southlawn.
23 Other than what you told me, do you

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1 remember any other conversations with Mr. Lowe
2 up to the point of he's non-renewed at
3 Southlawn, other than what you've already told
4 me?
5 A. Not to my recall, no.
6 Q. Do you remember any other conversations about
7 Mr. Lowe up to that point?
8 A. To anyone in general?
9 Q. Sure.
10 A. As I said before, I would have probably had a
11 conversation with the superintendent when it
12 came time to review individuals for
13 non-renewal, but not about Mr. Lowe
14 exclusively but about the individuals who were
15 being recommended for non-renewal.
16 Q. Do you remember anything about that particular
17 conversation?
18 A. No, I do not.
19 Q. Now, we've been given a number of documents
20 from Mr. Lowe's -- where he applied for some
21 different positions with the school system.
22 Those documents have some announcements, and
23 then behind them they'll have a certificate I

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1 guess of the employee who got the position.
2 A. Yes, sir.
3 Q. Will you keep the employee's resume, anything
4 that shows the qualifications of that
5 particular employee, who got that position?
6 A. No. By and large, if it's an administrative
7 position, we ask that the applicants bring a
8 resume with them to the interview process. If
9 it's a teaching position or something of that
10 nature, then there would be no resume
11 required. We basically check out minimum
12 credentials to make sure that they are
13 certified, that they meet the posted
14 qualifications for that particular position.
15 But we don't require a resume for them.
16 Q. They would have an application, though,
17 correct?
18 A. They would have to have an application on
19 file, yes.
20 Q. And that would detail their different
21 qualifications?
22 A. Yes.
23 (Brief off-the-record discussion.)

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1 A. Let me clarify that, Bill. If they are a
2 current employee of the schooldistrict and
3 they apply for a particular position, if it is
4 an administrative-type position, a letter of
5 intent is required by my office. If it is a
6 teaching position, something that's on a
7 parallel with the position that they are on,
8 they are free to interview with the principals
9 for those particular positions without having
10 a letter of intent. If you are a nine-month
11 teacher and there's another position that's on
12 a nine-month pay schedule and you know that
13 there's a vacancy at McKee Junior High School,
14 it's within your right to contact McKee Junior
15 High School and say, well, I'm interested in
16 that particular position. They do not have to
17 submit a letter of interest. If there's any
18 type of gain going from a nine-month or
19 ten-month, an increase in pay, then they must
20 submit a letter to us indicating they are
21 interested in that position. We cannot make
22 that assumption.
23 Q. If a person moves from, say, a nine-month to a

25 (Pages 97 to 100)

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1 ten-month position, is that considered to be a
 2 promotion?
 3 A. It is because there's a pay increase
 4 associated with it.
 5 Q. Does that mean they have to -- If they are
 6 going to move from that position to a higher
 7 one, does that position have to be advertised?
 8 A. That position has to be advertised, right.
 9 Q. Let's move into the fall of 2003. Do you
 10 recall any conversations with Mr. Lowe or
 11 about Mr. Lowe during that time?
 12 A. Fall of 2003? This is the time that he was
 13 hired for the position at Daisy Lawrence; is
 14 that correct?
 15 Q. Right.
 16 A. No, other than the fact of clarifying the
 17 position that he was applying for. When
 18 Mr. Lowe came down and approached me with
 19 regard to that particular position, of course
 20 I told him that he was under contract with
 21 Bullock County and that I would have to touch
 22 bases with them because we have a gentleman's
 23 agreement that we don't raid each other for

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1 talent.
 2 Mr. Lowe went over to talk with -- After
 3 getting assurances from Bullock County that it
 4 was not going to be tampering, then we got
 5 back in touch with Dr. Owens, and he went over
 6 to talk with Dr. Owens about that particular
 7 position, according to the conversation that
 8 Dr. Owens had with me. I cannot say that he
 9 did this. I'm going strictly by Dr. Owens'
 10 words to me. Dr. Owens' words to me were
 11 along the line that Mr. Lowe inquired about a
 12 reading coach position and that he told him
 13 that he did not have a reading coach position
 14 available, that he had a teacher/tutor
 15 position available. And before he called me
 16 back, he said that he had had the discussions
 17 with Mr. Lowe that he was interested in the
 18 teacher/tutor position, that he told him
 19 explicitly that he did not have a reading
 20 coach position and asked him if he was still
 21 interested, and he said that he was. And I
 22 told him to make sure that he had that
 23 clarification. And according to Dr. Owens,

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1 that's what he told him, that he was still
 2 interested in that particular position.
 3 And I had the same type conversation with
 4 Mr. Lowe, that we had a teacher/tutor
 5 position. Later on that very same year,
 6 Mr. Lowe sought by way of e-mail clarification
 7 as to what his duties and responsibilities
 8 would be leading into the summer. I reminded
 9 him again that he was on a nine-month
 10 teacher/tutor position, that he had no
 11 responsibilities beyond the 182-day teacher
 12 calendar so that there would be no
 13 misunderstanding of it.
 14 Q. What would a reading coach do that a
 15 teacher/tutor would not?
 16 A. Reading coaches had responsibilities for some
 17 training during the summer. If they were on
 18 the nine-month reading coach position, if they
 19 had no contract beyond nine months, then there
 20 must be some understanding between that person
 21 and the program that's going to work with them
 22 as to how they were going to be paid, whether
 23 they are going to be paid some type of

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1 supplemental contract for those particular
 2 days. If they were on a ten-month reading
 3 coach position, there was already an
 4 allocation. Their year extended beyond the
 5 regular school year, beyond the 182 days, and
 6 began before the 182 days so that that
 7 training could be taken care of.
 8 Q. I was really more interested in if I was to
 9 look at a reading coach and a teacher/tutor,
 10 what would they be doing that would tell me
 11 this is a reading coach and this is a
 12 teacher/tutor?
 13 MS. CARTER: Different than what he
 14 already explained today?
 15 MR. PATTY: Well, I haven't quite
 16 heard it other than nine-month
 17 and ten-month.
 18 MS. CARTER: He --
 19 MR. PATTY: Let him explain it.
 20 MS. CARTER: I don't care, but he
 21 told us all about that earlier.
 22 A. The primary difference, Bill, once again, was
 23 the teacher/tutor was responsible for working

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1 with students. You were to be diagnostic from
2 the standpoint of finding what students were
3 struggling with particular reading programs or
4 math programs. Teacher/tutors were not
5 exclusively reading. They could be math
6 teacher/tutors. You would pull those students
7 out and work with them on an individual basis
8 to try to get them to move from point A to
9 point B. Nothing in terms of any clinical
10 analysis of what teachers were doing. The
11 reading coaches were supposed to diagnose
12 deficiencies as they related to the teachers
13 themselves and work with them in improving
14 their skill level so that everybody is
15 teaching the same thing basically and
16 everybody is being as effective as they
17 possibly can. The focus was different. One
18 was on students and the other was on teachers.
19 Q. Did Mr. Carter ever say to you that all Melvin
20 Lowe is going to be in this system is a
21 teacher?
22 A. No, he did not.
23 Q. Did you ever tell Mr. Lowe or his mother

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1 on a tangent in a direction.
2 Q. But you never said anything to him that
3 Superintendent Carter was blocking anything or
4 had anything --
5 A. No, sir. I did not fall off the turnip truck
6 this morning. I assure you.
7 Q. Did Superintendent Carter ever express any
8 hostility toward Melvin Lowe to you?
9 A. No, he did not.
10 Q. Or any give you any kind of indication that he
11 did not want to employ Melvin Lowe, that he
12 had reservations about Melvin Lowe?
13 A. No, he did not.
14 Q. Before Melvin Lowe was brought in as a reading
15 coach, do you remember any conversations with
16 Mr. Carter about it?
17 A. No.
18 MS. CARTER: Object to form.
19 A. No, I do not. I remember none.
20 Q. How about afterwards? Do you remember any
21 conversations with Superintendent Carter after
22 Melvin Lowe was hired at Daisy Lawrence?
23 A. No. I imagine if Mr. Carter was on board when

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1 that's what Mr. Carter said to you?
2 A. No, I did not.
3 Q. Did you ever tell Mr. Lowe, you know what
4 Clinton Carter thinks about you?
5 A. No, I did not.
6 Q. Or indicate to him or his mother that Clinton
7 Carter was blocking him getting certain
8 positions in the school?
9 A. No, I did not. Mr. Carter had the ultimate
10 authority to make the recommendation as to
11 whether or not Mr. Lowe received employment in
12 the school district. It would be awfully
13 suppositious on my behalf to make a statement
14 such as that. On the other hand, when
15 Mr. Lowe would come to my office, he would
16 invariably want to go off on a tangent in
17 terms of what this person is not doing and
18 what this person is not doing; but,
19 Mr. Barker, I know that you are all right by
20 me, and I know that you're doing all that you
21 can to get me this job, but I know that
22 so-and-so doesn't want me to have it. It was
23 a common ploy on his behalf to try to go off

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1 the EEOC complaint was filed that I made him
2 aware of it, of the fact that we had the EEOC
3 complaint from Mr. Lowe, as was routine with
4 me with the sitting superintendent at that
5 particular time, if I recall. That complaint
6 arrived before Mr. Carter abdicated the
7 position and before Dr. Purcell came aboard.
8 Q. Do you know from personal knowledge of what
9 kind of duties Melvin Lowe was performing at
10 Daisy Lawrence?
11 A. I do not. I cannot honestly say what kind of
12 duties he was performing because Mr. Lowe in
13 conversations with me would say, well -- later
14 on, well, Dr. Owens had me doing this and he
15 had me doing that, and he know that I was
16 saving his bacon as far as the requirements of
17 this program and that program. But those were
18 after-the-fact observations by Mr. Lowe in
19 terms of what he was required to do there at
20 Daisy Lawrence. Since we had had the explicit
21 conversation what his duties and
22 responsibilities were as a teacher/tutor when
23 he was sent there, I assumed that Dr. Owens

27 (Pages 105 to 108)

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1 was holding him accountable with regard to
 2 performing the duties and responsibilities
 3 associated with that position.
 4 (Plaintiff's Exhibit 10 marked for
 5 identification.)
 6 Q. Can you identify this document for me?
 7 A. This seems to be a rehire document for Melvin
 8 Lowe for 11/13/03. This seems to be the
 9 rehire document when he was sent to Daisy
 10 Lawrence.
 11 Q. What's the date on that again? I'm sorry.
 12 A. I can't make it out unequivocally. It's
 13 10/13/03 or 11/13. It says effective date.
 14 It may be 10.
 15 Q. What position does that say?
 16 A. It says a reading tutor.
 17 Q. Let me show you what is marked as Exhibit 11.
 18 Can you identify that document?
 19 (Plaintiff's Exhibit 11 marked for
 20 identification.)
 21 A. Salary -- This seems to be a salary step
 22 correction, and it says teacher at Daisy
 23 Lawrence, Melvin Lowe. It seems to be placing

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1 him on step three, experience credit four,
 2 when he inadvertently must have been -- if
 3 this is a follow-up to this other document had
 4 experience credit 5, and this says experience
 5 credit 4.
 6 Q. So it's a reduction in pay?
 7 A. No, it would not have resulted in any
 8 reduction in pay. Basically what happens is
 9 this: When a person comes in and fills out
 10 the paperwork, they fill out their experience
 11 base on one of the sheets that they submit to
 12 us. The administrator in that particular
 13 office would take them at their particular
 14 word, realizing that they may genuinely may
 15 make a mistake or inadvertently make a mistake
 16 and come back and make the corrections and get
 17 it to payroll in a timely enough manner so
 18 that no mispayment is done.
 19 In this particular case, it would not have
 20 involved a reduction in pay because you go on
 21 three-year increments. You stay on the same
 22 pay level until you get to year three and then
 23 until you get to year six. So the only

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1 discrepancy here was in regard to whether he
 2 should have been on step 3, which establishes
 3 your pay level and have four years experience,
 4 or step 3 and have five years experience,
 5 which would have meant the next year would
 6 have affected whether or not he went to that
 7 sixth year and whether subsequently he would
 8 have gotten a pay raise.
 9 Q. Now, it listed him -- the first one lists as a
 10 teacher/tutor and the second one lists as a
 11 teacher.
 12 A. Right.
 13 Q. Why was that changed?
 14 A. On the first one, all of that information was
 15 filled in by Mr. Lowe himself, it seems as
 16 though, from the writing. We generally would
 17 have them to fill out the top of the sheet,
 18 and then we would fill out the bottom of the
 19 sheet. Unless something seems out of the
 20 ordinary, then we're not going to catch it if
 21 they misname themselves or something of that
 22 nature. But that pronouncement with regard to
 23 being a reading tutor was Mr. Lowe himself.

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1 Q. So y'all changed it to a teacher?
 2 A. Huh?
 3 Q. Y'all changed it to a teacher?
 4 A. Yeah. He was a teacher/tutor, which is still
 5 technically a teacher.
 6 Q. And that's different from a reading tutor?
 7 A. Right. Exactly. He was a teacher/tutor. If
 8 you recall, I said earlier teacher/tutor does
 9 not make you work exclusively with reading.
 10 You may be given assignments within reading.
 11 You may be given assignments within
 12 mathematics. You're just designated to pull
 13 students out and work with them on an
 14 individual basis.
 15 Q. Why wouldn't you call a reading tutor a
 16 teacher?
 17 A. A reading tutor?
 18 Q. If a teacher/tutor is a teacher, why isn't a
 19 reading tutor a teacher?
 20 A. "Teacher" seems to generally infer to me that
 21 you're on that nine-month teacher salary
 22 schedule. Now, when this was filled out, this
 23 was filled out -- if you'll notice, it didn't

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1 require Mr. Lowe's signature or anything, so
2 this was filled out probably exclusively by my
3 office, by me seemingly, by the person who
4 signed it. It says, see attached. And it
5 just goes go and changes and places him on the
6 right step. But the difference between the
7 two is what I would call him is what we hired
8 him as, and what he would call himself is what
9 he perceived himself as being, I guess.

10 Q. So he was hired as a teacher/tutor which is
11 treated as a teacher, not a reading tutor?

12 A. Yeah. The technical name for a teacher/tutor,
13 a reading tutor or math tutor is
14 teacher/tutor, and they are on the exact same
15 salary schedule as a 182-day teacher.

16 Q. Is that how it's advertised?

17 A. Yes, sir.

18 Q. As teacher/tutor?

19 A. As teacher/tutor, yes.

20 (Plaintiff's Exhibit 12 marked for
21 identification.)

22 Q. Let me show you Exhibit 12 and ask you if you
23 can identify that document for me.

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1 A. Melvin Lowe, reading coach, Daisy Lawrence, it
2 seems to be, and that's Carolyn Hicks,
3 5/13/04. That seems to be non-renewal, yes.

4 Q. What would -- That particular form would have
5 been filled out by Carolyn Hicks?

6 A. Most likely.

7 Q. Signed by her; is that right?

8 A. That's correct.

9 Q. Mr. Lowe's signature is not on that document?

10 A. That's correct.

11 Q. Ms. Hicks works in your department?

12 A. That's correct.

13 Q. And she lists as his job reading coach?

14 A. She seemingly does.

15 Q. And this was when y'all attempted to non-renew
16 Mr. Lowe at the end of the 2003-2004 school
17 year?

18 A. Yes, that seems to be that paperwork.

19 Q. Up until that point of the non-renewal in
20 2003-2004, had you had any conversations other
21 than what you've told me about with Mr. Lowe
22 or about Mr. Lowe?

23 A. Conversations with whom?

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1 Q. Anybody.

2 A. Not to my knowledge.

3 Q. What was the reason that -- or if you recall
4 that there was an attempt of a non-renewal of
5 his teaching position at the end of 2004?

6 A. Our alternative education program was one that
7 was seemingly in continual transition. At the
8 end of each calendar year -- school year,
9 there was always a reassessment with regard to
10 the effectiveness of that program. It was
11 very commonplace that there would be an
12 overhaul -- a programmatic overhaul with that
13 program at the end of a given year going into
14 another year.

15 If you were a non-tenured personnel
16 assigned to that program, in order to
17 facilitate the programmatic overhaul, those
18 individuals would be routinely non-renewed to
19 allow that process to take place. So
20 Mr. Lowe, along with -- I think at that
21 particular time there was one other person who
22 was non-tenured -- were included for
23 non-renewal, sent letters. Everything was

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1 done according to the way that it should have
2 been done except that it was not put in the
3 board minutes to confirm that they had been
4 non-renewed to facilitate this process.

5 Once we realized that that particular
6 error had been made, these individuals were
7 called back in because the deadline had come
8 and gone in order to notify them by the end of
9 the school year that their particular position
10 would be retained. Although it might be
11 contrary to our reorganization and
12 restructuring efforts, their position would be
13 retained because they were not notified --
14 They were notified in a timely manner, but the
15 board had not acted in a timely manner because
16 we had not presented it. And that's what
17 Mr. Lowe was told, and that's what the other
18 individual was told and that he was entitled
19 to the position he held the previous year.

20 Q. And so Mr. Lowe returned to Daisy Lawrence the
21 next year?

22 A. Yes. After he milked it for all that it was
23 worth. Mr. Lowe came in that summer, and we

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1 had a discussion that he had that particular
2 position. I need to get your name back on a
3 contract saying that you are still employed
4 there at that school. Mr. Lowe said at that
5 particular point, I would like to wait and see
6 if I get another position. Mr. Lowe, I'm
7 telling you that you are entitled to a
8 position; at least get your name on the line
9 so that that particular position cannot be
10 filled by anybody else. He kept telling me,
11 well, let's wait and see; let's wait and see;
12 let's wait and see and see if I can get
13 something else. Nothing would preclude you
14 from applying for other positions, Mr. Lowe,
15 if you get your name back on the position that
16 you held on last year.
17 Right up to the very end of the summer, he
18 finally came in. I guess he recognized at
19 that particular point that his opportunities
20 were growing fewer with regard to being placed
21 elsewhere, and then he consented to being
22 reassigned to that same position.
23 Q. Do you remember any other conversations you

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1 had with Mr. Lowe other than what you've
2 talked about just now?
3 A. No, I don't remember. I did tell him that I
4 was disappointed in the fact that he would not
5 facilitate that process of getting his name on
6 the line with reassurances that he could apply
7 for any other positions that came open. But
8 it was his right to do so, so I went along
9 with it.
10 Q. Do you recall talking to anyone about Mr. Lowe
11 during the summer of 2004?
12 A. No, I do not.
13 Q. Do you remember a position coming open at
14 McKee that Mr. Lowe applied for where
15 Principal Abrams was the principal that
16 summer?
17 A. No, I do not.
18 Q. Do you remember Principal Abrams recommending
19 Lowe for this position? An administrative
20 assistant position, I believe.
21 A. No, I do not.
22 Q. Would Mr. Lowe have the certification and
23 education for that kind of position?

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1 A. I'd have to check his credentials to see at
2 what point he became certified in
3 administration. I know at some point he did,
4 and he began to interview for those types of
5 positions.
6 Q. What would he need I guess is what I should
7 have asked you for that type of position?
8 A. Administrative certification.
9 Q. Administrative certification?
10 A. Yes.
11 Q. Is it appropriate for someone to take an
12 administrative position like that before
13 obtaining their certification in
14 administration?
15 A. No, it's not.
16 Q. Is it the practice of the school system or the
17 policy of the school system that a person have
18 the required certification prior to taking a
19 position?
20 A. If we are the ones who are applying the
21 rules. We make every effort to make sure that
22 the person is certified before placing them in
23 that particular position, yes.

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1 Q. So if certification is coming in a short
2 period of time, they would still be
3 disqualified from that position?
4 A. If it is a full-hire position, right, that's
5 going to obligate the school district for a
6 full year or something with any inkling that
7 it's going to be a full year.
8 Q. What about a summer position?
9 A. Summer positions were different. We made
10 every effort to ensure in placing a person for
11 summer that they had proper credentials;
12 however, it didn't obligate the school
13 district in some cases. For example, with our
14 ARFI program, one summer we had -- the State
15 of Alabama had a program that was housed at
16 Thelma Morris School. And they were hiring
17 administrators. They were hiring teachers
18 inside the school district, outside of the
19 school district for that particular program.
20 We tried to take all of the safeguards -- it
21 was being done in such a haste in trying to
22 get everybody in place -- take all of the
23 safeguards to make sure that whoever manned

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1 those particular positions had the credentials
2 that were necessary in order to man them.

3 We did have one young lady who supervised
4 the program at Thelma Morris who at the time
5 that she supervised the program had not
6 received her full certification. Her
7 certification was not forthcoming until the
8 end of August, but it was a matter that she
9 was negotiating with Thelma Morris and the
10 State. And we didn't get the overview of that
11 until it was too late. That's the only
12 situation I can ever recall. There may have
13 been some others at some point, but that's the
14 only one I'm ever aware of where we had a
15 person who was in a particular position for
16 which they were not fully certified.

17 Q. Would Mr. Lowe have the certification
18 education to be SIA?

19 A. If he had the administrative certificate at
20 that particular time, yes, he would have.

21 Q. How about an assistant principal?

22 A. Assistant principal, yes, he would.

23 Q. And then we've already talked about reading

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1 coach, right? He has the certification and
2 the education for that, is that right?

3 A. Yes. As long as he has certification in
4 elementary education or reading -- and/or
5 reading.

6 Q. And your testimony is you don't recall
7 Mr. Abrams approaching you about a position at
8 his school in the summer or late summer of
9 2004?

10 A. That's my position.

11 Q. Do you know that was one of the things that
12 Mr. Lowe complained about in his EEOC
13 complaint was not being hired for that
14 position?

15 A. I don't recall Mr. Abrams making a
16 recommendation for Mr. Lowe, no.

17 Q. Did you ever investigate to see, with
18 Mr. Abrams, if he made that recommendation to
19 somebody without your knowledge?

20 A. I asked Mr. Abrams if he made the
21 recommendation of Mr. Lowe. He told me that
22 he did not.

23 Q. Did he ever indicate to you he wanted to hire

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1 Mr. Lowe for any positions at his school?

2 A. No, he did not. The only -- Mr. Abrams
3 approached me to my recall. I was at Capitol
4 Inn having lunch. Mr. Abrams and another
5 principal came out of Capitol Inn. He stopped
6 me and asked me, Mr. Barker, Mr. Lowe has been
7 by my school to inquire about a special
8 education position that I have available; is
9 he a viable candidate for that position. I
10 told him in no uncertain terms as long as he
11 meets the certification requirements for that
12 position, he is a viable candidate and he can
13 be selected and recommended for that
14 position. I told him I could not talk off the
15 cuff and determine whether or not he met those
16 certification requirements, that I would check
17 when I got back to school and that I would --
18 back to the office and that I would give him a
19 call.

20 I subsequently checked. I subsequently
21 inquired of Mr. Lowe if he had certification
22 along the lines of special education.
23 Mr. Lowe gave me a bunch of fast talk saying

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1 that I have taken these courses and that these
2 courses meet the requirements. I can get an
3 emergency certification. Mr. Lowe, show me
4 proof that you have these courses that you say
5 that you've taken. Mr. Lowe presents to me a
6 transcript that does not have a single special
7 education heading on it. I'm told all the
8 time in my position that I qualify for this.
9 I'm told by applicants all the time that I can
10 teach math. I review their transcripts, and
11 they've got one single math course on it. Yet
12 they can teach math. Desire alone does not
13 qualify you to teach a particular position.

14 To this date Mr. Lowe has not shown me any
15 special education courses that he has taken by
16 way of a transcript that would qualify him to
17 teach special education. Sure he's given me a
18 lot of dialogue that says this will count for
19 that and this will count for that, but it's
20 his responsibility, not mine, to go to some
21 state department and say that these courses
22 are substitutable for these particular courses
23 and I can get certified in this particular

31 (Pages 121 to 124)

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1 area. Until he shows me that, I'm not going
2 to step out on a line and allow him to assume
3 a position that I have high suspicion that he
4 is not certified for.
5 Q. Does the school system ever obtain emergency
6 certification for employees who don't have
7 their full certification in an area?
8 A. Yes, we do.
9 Q. In the summer of 2005, did you obtain any
10 emergency certification for teachers?
11 A. Yes, I did.
12 Q. Can you name any of those?
13 A. Can't name them specifically, but I can give
14 you the circumstances.
15 Q. Let me ask you this before you give me the
16 circumstances. Did they have teaching
17 certificates before you hired them with an
18 emergency certificate?
19 A. Not necessarily a teaching certificate, but
20 they would have a degree.
21 Q. Does the school hire people who don't have
22 education degrees but obtained emergency
23 teaching certificates while they work for a

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1 fifth-year master's program?
2 A. We do.
3 Q. How many people do you think got emergency
4 teaching certificates this past year?
5 A. I can tell you exactly. We have 53 people who
6 are on emergency certificates for various
7 reasons, the most common reason of which is
8 that they apply with the school district.
9 They cannot get accepted into an alternative
10 education program because of timing or because
11 of whatever reason they might have, but they
12 will have a degree in the related area.
13 For example, a person might very well have
14 a degree in social science but will not have
15 the certification in social science. They
16 have the necessary hours. They just cannot
17 get into that program. We get them by for the
18 remainder of that year with an emergency
19 certification. They apply for the alternative
20 certification when it is timely to do so, but
21 they have the coursework requirement.
22 And special education, since that's what
23 we're referring to, we had a requirement

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1 wherein you had to have documentation of at
2 least 18 earned hours in special education
3 before you're considered for alternative
4 certification, at least 18 hours. Mr. Lowe
5 did not present any evidence of any hours to
6 me. He had the desire to teach special
7 education, and he possibly could have done so
8 but he didn't have the credentials to do it,
9 at least he didn't present to me his
10 credentials to do it.
11 Q. Do you remember if the school applied for
12 those emergency certificates or did the
13 individual go get them and bring them to the
14 school?
15 A. No. We apply through my office. You have to
16 submit -- fill out the paperwork through my
17 office, and it has to be submitted to the
18 State Department of Education. We look like
19 fools if we submit something and we know that
20 that person does not have the coursework in
21 order to receive that certificate. We have to
22 review it ourselves and say, well, this person
23 has the adequate coursework. It is not a

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1 timely manner for them to get into an
2 alternative program, but we're going to get
3 them by. The State is not going to honor it
4 if you just arbitrarily send in a person for a
5 an emergency certification based upon desire.
6 You can't do that.
7 Q. Did you check with anyone at the State
8 Department of Education to see if Mr. Lowe
9 would qualify -- his courses would qualify?
10 A. For special education?
11 Q. Emergency certificate.
12 A. No, I didn't, because the first rule of thumb
13 there is to have the proper departmental
14 indication by the courses that you take. When
15 you get a person's transcript, Bill, it's
16 going to say, SPE or SP, special education,
17 SPED. Every course that is considered as
18 special education is going to have some type
19 of indication that it is a special education
20 course.
21 Am I sitting here saying that Mr. Lowe
22 hasn't had any courses that would qualify for
23 that? No, I'm not. I'm sitting here saying

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1 that Mr. Lowe has never presented to me any
2 evidence that any of the courses that he has
3 taken qualify for special education, which is
4 his responsibility.
5 Q. Were you aware that his work and his school
6 work on his doctorate degree was in special
7 education administration?
8 A. I'm aware that I had that conversation with
9 him, but I'm not aware of it by way of a
10 transcript.
11 Q. Is that the reason Mr. Lowe was not hired for
12 the job that Mr. Abrams had in special ed?
13 A. We never got to the recommendation stage
14 because when I called him back, I said
15 according to my research I cannot document
16 Mr. Lowe has had the special education courses
17 that he discussed with you and that he
18 ultimately discussed with me.
19 Q. Did Abrams say, I want to hire Mr. Lowe, or
20 did he put it just like, what do you know
21 about Mr. Lowe? How did he say that to you?
22 A. Basically what he asked of me was, if I'm
23 entertaining Mr. Lowe for a special education

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1 position at my school, does he meet minimum
2 qualifications.
3 Q. That's the first time Abrams ever approached
4 you about a job for Mr. Lowe?
5 A. First time.
6 Q. Or as you're here as a representative of the
7 school, as far as the school system knows,
8 that's the first time Mr. Abrams approached
9 the school system about hiring Mr. Lowe?
10 A. It is.
11 Q. Now, what about Mr. Sikes?
12 A. Mr. Sikes had a similar conversation with me.
13 It was not -- I don't want you to think I'm at
14 every buffet in town, but he called me up and
15 asked me basically does Mr. Lowe -- I have a
16 vacancy in special education; Mr. Lowe has
17 been on my doorsteps with regard to that
18 position; does he meet the posted
19 qualifications for special education.
20 I had already done the research at that
21 particular time because I think that was
22 subsequent to Mr. Abrams asking me. And I
23 told him I do not have any documentation that

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1 he is certified in special education.
2 Q. Did Mr. --
3 A. It may have been before, but I think it was
4 after.
5 Q. Did Mr. Sikes indicate that he wanted to hire
6 Mr. Lowe?
7 A. No. He just told me he had a couple of
8 vacancies -- I think he had two in special
9 education -- and that he was looking. And he
10 and I both were desperate for certified
11 applicants at that particular time because
12 there was a shortage for special education
13 teachers the entire summer going into the
14 school year after the school year had
15 started. So there would have been absolutely
16 no reason to deny him the right to hire him if
17 we could get him certified. It would have
18 been a glorious moment in my cap to find
19 someone whom I could get certified to place in
20 those positions. We couldn't do it.
21 Q. Did you ever say anything discouraging to
22 Abrams or Sikes about Mr. Lowe?
23 A. No.

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1 Q. Nothing disparaging about him?
2 A. No.
3 Q. Nothing to intimate that you didn't think he
4 was a good candidate for them to hire?
5 A. Absolutely not. The only subsequent
6 discussion that I had with Mr. Sikes was -- He
7 said, Mr. Barker, who is this man; he is on my
8 doorsteps every day; you have told me that he
9 does not meet the qualifications for special
10 education. I just said he is an aspiring
11 teacher. He's a teacher without a job, and
12 he's looking for a job, to kind of appease the
13 process with him.
14 Q. Did Sikes talk to you about Lowe teaching
15 science or English or any other courses?
16 A. Not to my knowledge. Special ed is all we
17 talked about.
18 Q. Did he talk to you about Lowe applying for an
19 assistant principal or administrative
20 assistant's position?
21 A. Not to my knowledge.
22 Q. Did you ever become aware of aMs. Starks that
23 wanted to hire Mr. Lowe?

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1 A. I know Ms. Starks. I'm not aware that she
2 wanted to hire Mr. Lowe.
3 Q. She never expressed to you any desire to hire
4 him?
5 A. Ms. Starks, if I recall correctly, recommended
6 three individuals consistent with the pattern
7 that I outlined to you earlier for her
8 administrative assistant's position. Among
9 those three individuals was Mr. Marvin Lowe,
10 but not Mr. Melvin Lowe.
11 Q. And who was chosen for the position?
12 A. A science teacher, black male, from a middle
13 school magnet school in the district, Floyd
14 Middle Magnet School.
15 Q. Were you aware of a position that was filled
16 by a lady named Karen Vann that Mr. Lowe
17 included in his concerns in his EEOC charge?
18 A. I know Karen Vann and the position that she
19 ultimately filled with the school district.
20 Q. Was that position advertised?
21 A. Yes, it was.
22 Q. And she's a white female?
23 A. That's correct.

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1 Q. Now, would that advertisement be one of those
2 general ones or will it say it specific to
3 that school that she advertised for?
4 A. I don't know, Bill. I would have to go back
5 and check on the timing of her hiring and
6 research the posted notice just prior to
7 that. I do know that she was selected. The
8 reason I remember Karen is because she was one
9 of the earlier-on system reading coaches that
10 were chosen. This was after Mike Looney and
11 Teresa Nichols were in position. Then they
12 collaborated to select Teresa Jackson. And
13 then after Teresa Jackson was brought on,
14 Connie Mizell was selected by that interview
15 committee. And then Connie Mizell -- after
16 she was brought on, Karen Vann was brought
17 on. All of these individuals were brought
18 on -- Connie Mizell was brought on as a
19 specialist, and she probably participated in
20 the screening process with regard to Karen
21 Vann. But I cannot say with certainty without
22 going and establishing that chronology.
23 Q. Do you remember telling Mr. Lowe that there

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1 was no need to advertise Karen Vann's position
2 because she was a lateral transfer?
3 A. No, I do not.
4 Q. Was that true?
5 A. I don't remember saying it. I don't know if
6 it was true.
7 Q. No. No. Was she a lateral transfer?
8 A. I don't think so. Unless she had a
9 twelve-month position prior to that. I would
10 have to research it. I don't know.
11 Q. And then Denitta Easterling, do you recall her
12 serving as summer school principal for the
13 summer reading camp at TS Morris Elementary?
14 A. She's the person whom I referenced earlier.
15 She was one who fell between the cracks
16 wherein she supervised a summer program for
17 the State of Alabama housed at Thelma Morris.
18 And I come to find out later on that after she
19 had done this -- and that's spilled milk at
20 that particular point -- that she didn't
21 actually receive her certification until the
22 end of that summer.
23 Q. Was there a screening process that she would

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1 have put down on her application before she
2 got that position so y'all would be able to
3 know what kind of certification she had?
4 A. Under ideal situations, yes. She would --
5 Everything would have been registered with
6 Montgomery Public Schools. We would have done
7 all the background work to make sure those
8 individuals were properly certified. As I
9 said before, that kind of fell between the
10 crack because there was negotiation going with
11 the state department in terms of who was going
12 to head up that particular school that
13 summer. And some individuals were being hired
14 outside the school district, teachers. Some
15 of them were inside the school district, and
16 she fell between the cracks. She convinced
17 somebody that she had her certification at
18 that time.
19 Q. Was she allowed during that summer to
20 interview for administrative assistant
21 positions?
22 A. Now, that I cannot say. I don't remember.
23 Q. What about other administrative positions? Do

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- 1 you know if she was able to interview then?
- 2 A. I don't know. I do know that it was very
- 3 close in proximity to the time that she
- 4 actually served. She probably began to serve
- 5 as that summer school supplemental contract
- 6 with the state department in June. In August,
- 7 two months later, she had completed the
- 8 certification, and she was ultimately hired
- 9 for that fall as an administrative assistant
- 10 with our school district, but she had the
- 11 certification at that particular time. Now,
- 12 she did not have it at the time she oversaw
- 13 that program for the state.
- 14 Q. Would she have been interviewing for those
- 15 jobs that she ultimately received in the
- 16 fall -- would she have been interviewing for
- 17 those during the summer?
- 18 A. It's possible. I cannot say, but it's
- 19 possible.
- 20 Q. Going back to Abrams in '04, did you ever tell
- 21 Mr. Abrams that he had to hire a woman?
- 22 A. No, sir.
- 23 Q. Have you told anybody for the positions that

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- 1 Melvin Lowe has applied for that they had to
- 2 hire a woman?
- 3 A. No, sir.
- 4 Q. You would not say that?
- 5 A. No.
- 6 Q. That would be inappropriate, would it not?
- 7 A. It would be, definitely.
- 8 Q. That you had to hire a woman --
- 9 A. No.
- 10 Q. -- as opposed to -- based on their gender?
- 11 A. No, definitely not.
- 12 Q. During the '04-'05 years, did you have any
- 13 conversations regarding Mr. Lowe?
- 14 A. '04-'05?
- 15 Q. Second year at Daisy Lawrence.
- 16 A. No.
- 17 Q. Did you have any conversations with Mr. Lowe
- 18 during that time?
- 19 A. I don't recall any other than, you know, maybe
- 20 during the time when he was -- Well, I just
- 21 don't recall any.
- 22 Q. When his leave requests were denied, were
- 23 those -- was that after you were aware of his

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- 1 EEOC complaint?
- 2 A. I don't think so.
- 3 Q. And what was the reason that his leave was
- 4 denied?
- 5 A. Mr. Lowe is not lacking in ambition at all.
- 6 He is fully confident in his abilities and the
- 7 things that he wants to do, whether for the
- 8 school district, within the school district.
- 9 He submitted a detached duty request to
- 10 represent the school district in a
- 11 conference -- I think if I recall in
- 12 California -- related to our reading program.
- 13 Well, we had all kind of ambassadors for
- 14 our reading program that were further up the
- 15 chain that Mr. Lowe. Mr. Lowe was a
- 16 teacher/tutor. He had no official capacity,
- 17 even as a reading coach, within the school
- 18 district. And we had all kind of individuals
- 19 who had the proper credentials. So I inquired
- 20 of his -- the person who would have been
- 21 giving that authority, Mr. Looney. I said,
- 22 Mr. Looney, I have a request from Mr. Lowe to
- 23 go out and represent the school district and

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- 1 make a presentation about our reading program
- 2 in a workshop-type setting; did you authorize
- 3 this.
- 4 Mr. Looney looked at me and gave me a
- 5 facetious laugh. He said no, I did not
- 6 authorize this. I turned down that
- 7 recommendation based upon my conversation with
- 8 Mr. Looney. I don't know what anybody else
- 9 told Melvin Lowe. I know that I had that
- 10 conversation with Mr. Looney, and I know what
- 11 his response was.
- 12 Q. Are you saying that Mr. Looney said that he
- 13 was against Melvin Lowe going to this
- 14 convention?
- 15 A. He didn't say he was against him. He laughed
- 16 at me and said, no, I did not authorize him to
- 17 go out and represent Montgomery Public
- 18 Schools' reading program.
- 19 Q. Did Mr. Looney ever come to you and ask that
- 20 you let Melvin Lowe go to this program?
- 21 A. No, he did not.
- 22 Q. Or tried to abdicate Melvin Lowe going to the
- 23 program?

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1 A. No, he did not.
 2 Q. Did he ever say he was against Melvin Lowe
 3 going to the program?
 4 A. He did not say. He inferred that it was
 5 absurd that Mr. Lowe was going to go out and
 6 represent the school district just by his body
 7 language when he laughed at me and said, of
 8 course I did not.
 9 Q. The principal at the school approved this
 10 leave on October 18, and then it was denied by
 11 you November 5th.
 12 A. Sounds reasonable.
 13 Q. What was the reason on the delay of the
 14 denial?
 15 A. It's -- Generally most of the requests for
 16 detached duty would go through one of the
 17 specialists in my office, Carolyn Hicks. If
 18 there was one that was of some concern -- and
 19 there were often ones of concern -- she would
 20 bring it to my attention and say, well,
 21 Mr. Barker, what are your feelings about this
 22 particular request. She just recently came to
 23 me on one that is totally dissimilar, but the

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1 reason -- the line of logic goes to say --
 2 This is what happens, Bill, and you're not
 3 naive enough to not identify with this.
 4 A principal, say, for example, will get
 5 ready to go to the National Association of
 6 School Principals in Las Vegas. Three days
 7 later I'm going to get a request for her
 8 spouse or his spouse in the school district to
 9 go to that same conference, whether they are a
 10 school principal or not. I'm forever on the
 11 alert to little things such as that to make
 12 sure that we're not funding vacations for our
 13 employees. That's my responsibility. I have
 14 to look at those things to see if they make
 15 walking-around sense before I sign my name to
 16 them and say that this -- I approve this
 17 particular request.
 18 Well, in my mind, it made no sense for a
 19 person who was not associated with the reading
 20 program of the school district to be making a
 21 presentation on behalf of the school
 22 district. It just didn't make sense.
 23 Q. Were you aware of the posting on the school's

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1 web site of the presentation Mr. Lowe did?
 2 A. I was not. I still have not been able to find
 3 that.
 4 (Plaintiff's Exhibit 13 marked for
 5 identification.)
 6 Q. Is this the leave request documentation that
 7 we just talked about?
 8 A. Seemingly it is, yes.
 9 Q. And then Mr. Lowe made a different request for
 10 leave on September 21, 2004?
 11 A. September 21, 2004, and this other one was
 12 11/5/2004.
 13 (Plaintiff's Exhibit 14 marked for
 14 identification.)
 15 Q. Do you remember why that one was denied?
 16 A. I don't remember specifically, but it was
 17 commonplace if a person were to go to one of
 18 these minority leadership conferences
 19 associated with AEA or MCEA that they would
 20 make a submission to the superintendent asking
 21 for certain individuals to be approved for
 22 those particular positions. And then we by
 23 and large govern ourselves by the individual

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1 who the superintendent gave his approval to
 2 go. I could only assume Mr. Lowe's name was
 3 not on that submittance that was made by MCEA
 4 or AEA and as a consequence -- I can think of
 5 no other reason why it would have been denied.
 6 Q. If Mr. Looney had been for this National
 7 Reform Conference, if he had said, yeah,
 8 I think Melvin Lowe is the guy to go to that,
 9 would you have approved that leave?
 10 A. Mr. Looney's position is on a parallel with
 11 mine with the school district. I would have
 12 respected him making that particular
 13 recommendation and allowed him to go because
 14 then the responsibility of accountability
 15 would have rested with Mr. Looney, not with
 16 me.
 17 (Off-the-record discussion.)
 18 Q. Let me ask you one other question. Do you
 19 know if Mr. Looney would have written Mr. Lowe
 20 and said, I've exhausted everything I could do
 21 to help with this matter; you can cancel your
 22 trip or you can take sick leave? Do you know
 23 why he would have written him that?

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1 A. I have no idea why he would have.
2 Q. That's not consistent with what he related to
3 you, is it?
4 MS. CARTER: Object to form.
5 A. That's not his reaction to me. His reaction
6 to me, as I said before, was to laugh and say,
7 of course I did not authorize this. But let
8 me put it this way: I'm not accusing
9 Mr. Looney of anything. It is not uncommon
10 for principals, supervisors in the school
11 district, to make the bad guy to be HR. They
12 just don't want to face personnel with the
13 fact that this is my decision on it. They'll
14 say, well, I submitted this to HR and HR says
15 this or says that. It's not uncommon. I'm
16 not saying that Mike would have wimped out
17 that way. He probably would have gone ahead
18 and told him if he did not, but I know what my
19 conversation was with him and I've testified
20 to it accurately.
21 MR. PATTY: We can take a break.
22 (Brief recess.)
23 Q. (Continuing by Mr. Patty) Do you recall if a

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1 lady named Katherine Carter Johnson got an
2 emergency certificate in 2005 for special ed?
3 A. Kathy Johnson?
4 Q. Uh-huh (positive response).
5 A. No, I don't.
6 Q. Do you know if she had a teaching certificate
7 prior to starting to work for the school
8 system?
9 A. Bill, I'll be glad to research it for you. I
10 don't know Kathy Johnson.
11 Q. I just thought -- When you said Kathy Johnson,
12 I thought, wow, you must know her.
13 Do you recall a Cynthia Provol in your
14 office saying to you and to Mr. Lowe and
15 Ms. Hicks that Mr. Lowe could get an emergency
16 certificate with the state department?
17 A. No, I do not. I remember Mr. Lowe e-mailing
18 saying that Cynthia Jackson had told him this,
19 but I don't remember Ms. Provitt --
20 I call her Jackson. I may call her
21 Jackson or Provitt interchangeably. She is
22 Jackson now. She was Provitt.
23 -- telling him that he could get an

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1 emergency certification. Now, under what
2 context, I have no idea. I'm not privy to the
3 conversation between the two of them.
4 Q. Would there be documents that would show when
5 Daisy Lawrence was going to be closed, when
6 that decision was made to close it?
7 A. I don't know that there will be documents
8 officially, but it would have had to have been
9 presented to the board, the proposal for
10 closing during the spring of '05, somewhere
11 between January of '05 and the spring of '05.
12 Q. Do you recall the meeting -- The
13 superintendent testified about a meeting that
14 was held with all the faculty at Daisy
15 Lawrence about the closing and how different
16 folks would get moved to different positions.
17 Do you remember that?
18 A. I recall, yes.
19 Q. What do you recall of that meeting? What was
20 said?
21 A. The superintendent and I visited the campus to
22 allay any concerns and fears that the faculty
23 and staff may have had there as to what was

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1 going to transpire with the closing of Daisy
2 Lawrence. We spoke to the faculty and staff.
3 And to my recall and to my later clarification
4 with Mr. Lowe, we assured the faculty and
5 staff that all tenured persons would be placed
6 in positions to their liking if they were
7 available. We were going to make every
8 concerted effort to place them in a comparable
9 position to the one which they held there at
10 Daisy Lawrence. All non-tenured persons --
11 there were three of whom -- were given no
12 assurances other than they could apply for
13 positions which came open in the district and
14 that they would be given due consideration for
15 those positions. I later reaffirmed that
16 position in writing by way of e-mail to
17 Mr. Lowe at his request roughly a month or so
18 later when he inquired -- I guess he was
19 growing some concern about whether or not he
20 was going to land a position, although it was
21 rather early on. I think it was in June. I
22 reaffirmed that position that I could give him
23 no assurances with regard to placement as I

37 (Pages 145 to 148)

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1 could give no non-tenured personnel, but that
 2 I encouraged him to keep applying and that
 3 surely something would come about before the
 4 school year -- the next school year started.
 5 And that was the extent of it. That's what I
 6 recall about it.
 7 Q. Did the other two non-tenured teachers get
 8 positions with the school?
 9 A. They ultimately did. Yes, they did.
 10 Q. When did they get positions?
 11 A. Bill, to be absolutely honest with you, when
 12 this came up, I checked. All it says is
 13 August of that subsequent school year. If
 14 they had been hired in July, it would say
 15 August. If they had been hired in June, it
 16 would say August. If they had been hired in
 17 August, it would say August. So at some
 18 subsequent point, they interviewed for
 19 teaching positions at other schools and
 20 received them. One of them was a credentialed
 21 special education teacher. And as I told you,
 22 there was a supply/demand situation that
 23 favored them drastically. The other was an

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1 elementary ed teacher who interviewed with
 2 some school and got on with them. But to tie
 3 it down to exactly when, I can't say when.
 4 Q. Were there any -- All the tenured teachers got
 5 positions, right?
 6 A. All the tenured persons got positions, the
 7 last of whom was the guidance counselor that
 8 was referred to earlier by the superintendent.
 9 Q. And the principal, who was a contract
 10 principal, got a position?
 11 A. That's correct.
 12 Q. What about classified employees?
 13 A. I would have to check to make sure in that
 14 case. I assume -- As best I recall, there was
 15 a building custodian who was ultimately picked
 16 up by another of the elementary schools after
 17 having done a temporary stint for a person who
 18 was on sick leave at central office, because
 19 she used to keep that building over there
 20 very, very clean, immaculately clean, and she
 21 interviewed for a position -- an interim
 22 position. She was brought on on an interim
 23 basis, and then she was hired well after the

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1 school year had started by another elementary
 2 school.
 3 Q. Would it be fair to say all certified
 4 employees got positions except Mr. Lowe?
 5 A. It would.
 6 Q. Would it be fair to say that all the employees
 7 of the school, classified and certified, got
 8 positions except Mr. Lowe?
 9 A. I cannot say that unequivocally because I
 10 would have to check with the support. The
 11 only one that I'm familiar with is the young
 12 lady I referenced.
 13 Q. Do you know how many non-tenured classified
 14 employees would have been --
 15 A. I don't recall.
 16 Q. Now, in the spring of 2005, did you have any
 17 contacts regarding Mr. Lowe or with Mr. Lowe
 18 that you recall?
 19 A. Spring of 2005? Not that I recall, other than
 20 the visit that I made to the school. I didn't
 21 speak with him individually that day.
 22 Q. And what about in the summer of 2005 other
 23 than what we've talked about? Obviously you

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1 don't need to rehash that.
 2 A. No, other than maybe some e-mails that were --
 3 may have been exchanged between the two of
 4 us. He may have called me up on an occasion
 5 and -- I need a job; I'm getting a little
 6 antsy. I cannot say unequivocally, but it
 7 seems as though I recall a conversation of
 8 that nature.
 9 Q. How many job openings for certified employees
 10 were there this summer?
 11 A. Educated guess, 200, 250.
 12 Q. How many openings do you think there were that
 13 Mr. Lowe would have had the proper
 14 certification for?
 15 A. There were numerous elementary ed positions
 16 that were vacant throughout the school
 17 district, and he had the certification for
 18 elementary education. Now, I cannot -- I
 19 don't recall whether or not he was highly
 20 qualified. That would be the only issue with
 21 regard to restricting placement. If you're
 22 not highly qualified, we could not place you
 23 in a position -- school that was receiving

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1 federal funds. He may very well have been
2 highly qualified and may have been a candidate
3 for all of those. I didn't handle the
4 elementary end of it so I'm not that aware of
5 whether or not he was highly qualified at the
6 time.
7 Q. I thought that teachers only had to be highly
8 qualified by the end of this school year in
9 order to be employed?
10 A. That is true. However, we are in a gradual
11 plan to reduce the number. You could not have
12 18 non-highly qualified persons at a Title I
13 school for last year and then have 19 this
14 year. You can only go in the other
15 direction. So you couldn't hire additional
16 ones. You could still have individuals on the
17 staff who were not highly qualified, but you
18 couldn't hire additional ones and place them
19 at the Title I school. But that may have been
20 a moot issue. He may very well have been
21 highly qualified. I cannot say unequivocally
22 today because -- All it would take is for me
23 to pull his record when I got back to see.

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1 Q. Of those 200 position that would have been
2 available this summer, how many of those
3 people would it have been the first year they
4 had ever worked for Montgomery County? Do you
5 know judgment-wise?
6 A. I would hate to guess. I really don't know.
7 Q. Is it less than 50 percent?
8 A. I would venture to say it would be because a
9 good number of those individuals who are
10 non-renewed from previous years at other
11 settings may very well shore up whatever
12 certification deficiencies they may have.
13 They may be given another opportunity by a
14 different principal all together different
15 from who may have recommended them from being
16 non-renewed the prior year. So a good number
17 of them. It is not uncommon for us to -- if
18 we have X number of individuals to be
19 non-renewed to have a 50 percent rate of those
20 individuals being placed before the next year
21 takes place.
22 Q. Do you have a judgment of these new hires that
23 never worked in the school system before would

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1 be more than 20 percent? Is that the norm?
2 A. I'd hate to guess. I would think that sounds
3 reasonable, but I just would hate to guess.
4 Q. Connie Mizell that was on the committee that
5 interviewed Mr. Lowe, did she have an
6 allegation made against her of a racial nature
7 this past year?
8 A. She had an allegation made. I don't think it
9 was this past year. I want to think it's at
10 least one year removed, because it was during
11 the time that she was principal at one of the
12 elementary schools. And she's been at central
13 office for a full year now.
14 Q. Well, what was that allegation?
15 A. It was saying that she allowed race to factor
16 into her administrative decisions there at the
17 school.
18 Q. Was it made by an employee or a parent?
19 A. It was made by her assistant principal at the
20 time, her administrative assistant.
21 Q. Who is that person's name?
22 A. Pat Johnson.
23 Q. Is she employed with the school system now?

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1 A. She recently retired at the end of December.
2 Q. Something was alluded to by the superintendent
3 about Ms. Mizell going on administrative leave
4 this past fall. What was that? Is that
5 related to this incident or is that something
6 else?
7 MS. CARTER: Object to form. I
8 don't think she said she went on
9 administrative leave. You asked
10 her if --
11 MR. PATTY: Yeah. And I thought she
12 said she thought she had, but she
13 thought it was something to do
14 with -- I didn't really get her
15 explanation of it.
16 A. I think she was probably alluding to back when
17 that situation came about because I don't
18 remember her going on administrative leave
19 within the last year.
20 Q. Is the school on unitary status now?
21 A. Define unitary.
22 Q. No longer under the Lee v. Macon, or is it
23 still under that order?

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1 A. I don't think we're under -- I'm not sure. I
2 can't say. That's something I'll find out,
3 though. It makes me seem uninformed, but I
4 can't say.
5 MS. CARTER: No. He's talking about
6 are you still under the order
7 that dictated the racial issues
8 in hiring. You probably just
9 don't recognize the case name.
10 And y'all aren't. We talk about
11 it all the time. That's just
12 call it the Lee v. Macon case.
13 A. It just brings on -- Lee v. Macon to me was
14 relative to unusual placements of students
15 into special education and gifted, those type
16 things.
17 Q. That was the desegregation order and also
18 hiring --
19 A. Oh, okay.
20 MS. CARTER: Yeah, he doesn't
21 know -- I don't think we refer to
22 it as that when we talk about
23 it.

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1 Q. I know you talked about there was a form that
2 you prepared that has your recommendations
3 that you give the superintendent regarding
4 employment, so there would be those documents
5 possibly in your recommendation file. And
6 then that file would also contain any
7 correspondence that the principal gives you
8 regarding that employee wanting to hire him?
9 A. Not necessarily.
10 Q. Would I need to go to the principal, then, to
11 get that document, or where would I get that?
12 A. Generally that's going to be an e-mail.
13 Generally most principals have gotten to the
14 point where they'll say, I've interviewed the
15 applicants for this particular position, and I
16 recommend John Doe for the science vacancy
17 replacing Tim Smith. And that would be the
18 extent of it because they know that most
19 teaching positions are not going to raise any
20 eye with regard to challenging it as long as
21 the person meets the certification. So that's
22 for the purpose of if we have not already
23 checked it out, check it out to see whether or

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1 not that person is properly certified before
2 you give an answer back and say yea or nay.
3 Generally that doesn't get to the
4 superintendent. That's never -- that's not in
5 that file with regard -- After I get that and
6 check out the credentials, it's very possible
7 that that could be shredded and we go on to
8 the next case because that happens 250 times a
9 summer, you know.
10 Q. So it may be best to ask the principals if
11 they have anything --
12 A. Yeah.
13 Q. -- relative to that?
14 A. It may very well be.
15 Q. And as far as seeing what the individuals --
16 whether it's a job application or resume, all
17 that would be in the person's personnel file,
18 right?
19 A. That's correct.
20 MS. CARTER: I will tell you when we
21 gathered that stuff, I didn't
22 tell them to copy the application
23 because in my mind I was thinking

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1 they filled that out when they
2 first got hired, which was silly
3 because I guess some of those
4 people could have been new
5 hires. But we can pull the aps
6 for those people. I just said
7 send their credentials. I
8 haven't looked at the stuff yet,
9 but I think it was resumes or
10 their certification sheets.
11 MR. PATTY: Mostly it looks like
12 it's certifications.
13 MS. CARTER: So we can pull the aps
14 and copy those too.
15 Q. I showed Dr. Purcell an e-mail she received on
16 June 22, 2005. It's Exhibit 5. Do you recall
17 seeing that document?
18 A. Yes. This looks very much like the document
19 that was shared with me by Dr. Purcell.
20 Q. What did you do after receiving that document?
21 A. There were some rather serious allegations in
22 there with regard to what Mr. Lowe felt was
23 things that had been said to him by Dr. Owens

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1 and by various people, and all of them were
2 alluding to the fact that he thought that
3 there was evidently some block of his
4 assignments by the HR office. And so since we
5 had just finished the EEOC complaint or the
6 EEOC complaint may still have been unresolved
7 at that particular point, I remember getting
8 this memo, calling Elizabeth Carter here
9 and --

10 MS. CARTER: Don't go into anything
11 we --

12 MR. PATTY: Yeah, don't --

13 MS. CARTER: Once it was referred to
14 me, you don't go past that.

15 A. But I did not want to take a chance that this
16 could impact anything else, so I called her.

17 Q. Don't tell me what you talked about with
18 Elizabeth, but I would like to know if you
19 talked to Owens about it.

20 A. At that particular time, I did not because I
21 knew the allegations on there were totally out
22 of kilter. The things that he said that
23 Dr. Owens told to him, I knew that I had had

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1 no conversation with Dr. Owens -- I haven't
2 discussed Mr. Lowe in an unprofessional manner
3 with Dr. Owens at any time. So I knew that
4 this was totally unfounded. Not saying that
5 it -- the conversation did not happen between
6 the two of them, but I didn't follow up on it
7 because I knew there was no possibility for it
8 to be true.

9 Q. So did you interview anybody with regard to
10 that Exhibit 5?

11 A. I didn't interview anyone. I talked back with
12 the superintendent. My comments to the
13 superintendent were, have you looked at the
14 structure of this e-mail. It makes a mighty
15 bad point for a professional in the field to
16 e-mail the superintendent of education a
17 document of this nature that is barely
18 coherent, and that same person is asking me to
19 allow them to go out and represent the school
20 district and you send a document of this
21 nature to the superintendent of education whom
22 you would think you would be on your Ps and
23 Qs. I remember making those comments to her.

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1 Q. You were pretty mad about that document?

2 A. No, sir, not mad about it. Disappointed that
3 Mr. Lowe, who had proven himself to be a
4 reputable teacher in the school district,
5 would take such carelessness in sending this
6 type of documentation to the superintendent of
7 education. I cannot make a case for him when
8 he is sending that. If you have taken the
9 time to read it, it's barely coherent. It's
10 despicable in terms of a professional
11 corresponding with the superintendent.

12 Q. Was Carla Winborne told to go -- I'm jumping
13 around a little bit. Was she told to go tell
14 Dr. Owens that he could not hire Mr. Lowe?

15 A. Carla Winborne consulted me, and I told her
16 basically the process that was going on. I
17 told her that I had asked Connie Mizell to get
18 Dr. Lowe some additional applicants as it
19 related to the reading coach position and that
20 she could not accept his recommendation as a
21 reading coach until that issue was resolved.
22 So her response I assume was, I cannot hire
23 Mr. Lowe at this particular time, because I

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1 didn't give her any additional detail.

2 Q. After he had interviewed the people that you
3 wanted him to interview, did Carla Winborne
4 tell or did you instruct Carla Winborne to
5 tell Dr. Owens to tell -- tell Dr. Owens that
6 he could not hire Melvin Lowe, that he had to
7 pick somebody else?

8 A. No, I did not. I just told Carla Winborne
9 that we could not hire Melvin Lowe at this
10 particular time because we were interviewing
11 some additional applicants and that that
12 process -- that she could not accept his
13 recommendation for that. And I told Dr. Owens
14 the same thing. Dr. Owens made it clear to me
15 that he still wanted Mr. Lowe as his reading
16 coach. I told him that most likely that would
17 not happen based upon the strength of the
18 candidates and what Dr. Purcell wanted for
19 that particular school.

20 Q. Did Dr. Owens ever defend you -- defend Melvin
21 Lowe before you or before central office
22 personnel to your knowledge and tried to get
23 y'all to give him some job?

41 (Pages 161 to 164)

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1 A. Now, Dr. Purcell inquired about him. I guess
2 when she got e-mails from him, there --I was
3 not aware of all of the different e-mails that
4 have been brought out in this testimony, but I
5 would assume after she got e-mails from him,
6 she might inquire -- Her first inquiry to me
7 about Melvin Lowe was when she first came to
8 the district and she said, I've had these
9 various correspondences from individuals in
10 the district; who might these individuals be.
11 And I would maybe say, well, this is a
12 counselor with the school district; this is a
13 teacher with the school district; this is a
14 school administrator, et cetera, & cetera.
15 She had the disadvantage of not knowing anyone
16 from who she was getting the correspondences
17 from, and I would just give her the bare facts
18 as it relates to who these individuals were.
19 Q. I'm sorry. I meant to ask, did Dr. Owens ever
20 defend to you or to your office Melvin Lowe?
21 A. No, he didn't have to defend it. He just made
22 it clear that that was the person -- It was
23 evident to me that he must have done a good

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1 job for Dr. Owens. It was just --
2 Q. Before --
3 A. Go ahead. I'm sorry.
4 Q. No. Before --
5 MS. CARTER: You can finish your
6 answer.
7 Q. Yeah. I would -- Before June 22, 2005, did
8 Dr. Owens say to you or your office that he
9 would like to get y'all to give Mr. Lowe
10 something, some kind of job?
11 A. Not to my recall. He didn't make the
12 statement to me.
13 Q. Did Dr. Owens or did you ever say anything to
14 Dr. Owens or did anyone in your presence in
15 administration say anything to Dr. Owens that
16 the board was getting back at Melvin Lowe
17 because he filed his lawsuit?
18 A. Definitely not.
19 (Plaintiff's Exhibit 15 marked for
20 identification.)
21 Q. What is Exhibit 15?
22 A. Exhibit 15? This is the results of our having
23 done -- when I say our -- HR having done

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1 preliminary background with regard to
2 individuals who had applied for administrative
3 placements as administrative assistants or
4 school-wide instructional assistants in the
5 school district. It is routine for us to have
6 an abundance of applicants, especially over
7 the summer months. And we will generally run
8 all of those applicants through a general
9 session wherein we ask the same scripted
10 questions and invite the principals in who may
11 have vacancies in either one of those areas to
12 let the principals get a general exposure to
13 all of those applicants. And then we
14 encourage them to invite individuals from
15 among those listed there out to their schools
16 for follow-up interviews if they have
17 vacancies in either one of those areas. That
18 basically is a list just attesting to the fact
19 that these individuals have been cleared.
20 Their credentials have basically been
21 checked. They've been run before this
22 committee.
23 Q. And that was in what year? What time frame?

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1 A. Let's see. This says 7/8/05. July 8, I
2 think, '05.
3 Q. What positions would that be?
4 A. These would be for administrative-type
5 positions that they may have vacant in their
6 area. Primarily assistant principals or
7 school-wide instructional assistants.
8 Q. Is there a document that talks about what that
9 is that describes the policy and the procedure
10 for that clearance and everything?
11 A. There's no document, no
12 Q. Is there a document that describes the policy
13 of the committees being used for reading
14 coaches -- to interview for reading coaches?
15 A. Not to my knowledge.
16 Q. Is there anything in writing that talks about
17 when you should use committees versus not use
18 committees?
19 A. No.
20 Q. Do you remember a lady named Pat Carnage,
21 principal of Highland Gardens, ever expressing
22 any interest in wanting to hire Mr. Lowe for a
23 position?

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1 A. No, I do not.
2 Q. How about Janice Harvey?
3 A. No, I do not.
4 MS. CARTER: What was the first name
5 you said, Bill? Those are not
6 names I've heard.
7 MR. PATTY: Pat Canagie.
8 Q. And you had no conversations with the
9 superintendent of Bullock County about
10 Mr. Lowe?
11 A. Other than to clear the fact when he was
12 considering a return to the school district
13 that we would not be looked at as tampering.
14 Q. That was with the assistant superintendent?
15 A. Right.
16 Q. But nothing with the superintendent?
17 A. No, nothing with the superintendent. That's
18 correct.
19 Q. And you never told Abrams or Owens that they
20 need to hire women?
21 A. No.
22 Q. Were there any problems with Mr. Owens' work
23 or did you get any complaints regarding his

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1 work in his two years at Daisy Lawrence?
2 A. Mr. Lowe you mean?
3 Q. Yes. I'm sorry.
4 A. Not to my knowledge, no.
5 Q. And you did not have -- you don't recall a
6 vague conversation with Mr. Lowe and
7 Mr. Abrams after Mr. Abrams gave you a letter
8 of recommendation for Mr. Lowe where you said
9 that Abrams wants you real bad, but I have to
10 see what Carter will do because he may not
11 give on this or bend on this?
12 A. No, I did not have that conversation.
13 Q. Have we covered all the conversations you can
14 recall with Mr. Lowe during his employment
15 here at the school?
16 MS. CARTER: Object to form.
17 A. All that I can recall.
18 Q. Have we covered all the conversations about
19 Mr. Lowe and his job at the school that you
20 may have had with third parties?
21 A. All that I can recall.
22 Q. Let me make sure it's clear. With regard to
23 Plaintiff's Exhibit 5, what was done with this

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1 was you talked to the school board attorney?
2 A. Yes.
3 Q. And you then went back and talked to the
4 superintendent?
5 A. I went back to report to the superintendent
6 that I had turned that information over to the
7 school board attorney.
8 Q. And that's all that was done with that letter?
9 A. Other than my --
10 MS. CARTER: Object to --
11 A. Other than my making the comments that I told
12 you I made earlier.
13 Q. All right.
14 Would Exhibit 5 fall in the category of
15 complaint or grievance?
16 A. Let's see what you have here. I would put it
17 in the category of venting a complaint.
18 Q. Help me understand -- I want to try to -- I
19 think what I'm going to do is refer -- These
20 are job notices, and they have attached to
21 them some documents that go with them. Rather
22 than just keep sticking all of them, what I'm
23 going to do is collectively make this Exhibit

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1 16, and then I'll refer to the individual
2 document by its Bates number.
3 (Plaintiff's Exhibit 16 marked for
4 identification.)
5 Q. What I'm trying to do is understand which
6 announcements and positions these go with.
7 Let me show you the first one, which is
8 Bates numbered 1508. And it looks like the
9 way I'm reading this is the successful
10 candidate has got their certificate attached
11 to the announcement, which is Bates number
12 1509. Can you tell me what position that goes
13 with?
14 A. Position of reading coaches, and this is May
15 9, 2005. So I would assume that this was for
16 positions of reading coaches at various school
17 sites throughout the school district entering
18 the summer of 2005, positions that might come
19 open.
20 Q. Would that have covered the -- Ms. Freney is
21 the person's name attached. Does that
22 announcement cover the position with
23 Dr. Owens?

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1 A. It does. It would have.
 2 Q. Now let's look at Bates number 1319. It says
 3 applications accepted for position of
 4 administrative assistants at Crump Elementary
 5 and Brewbaker, and that's August 18, 2003.
 6 And then there's attached two people, Rhonda
 7 Oates-Tucker and Ms. Crawford.
 8 Do you remember if those are white
 9 females? Black females?
 10 A. Both of those are black females.
 11 Q. Do you know -- I'll tell you what I'm going to
 12 do. I don't know if I necessarily want to
 13 mark this, but it may be helpful if you can --
 14 MS. CARTER: Are you looking at the
 15 list of teachers?
 16 MR. PATTY: Right.
 17 MS. CARTER: Let me tell you how we
 18 put this together. We took
 19 y'all's list from the corporate
 20 rep deposition notice, and then I
 21 added one that I thought y'all
 22 had missed and I added the four
 23 from this past summer. So if he

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1 could look at that while he did
 2 it, it might go faster.
 3 MR. PATTY: That sounds good.
 4 MS. CARTER: In fact, I actually
 5 wrote a list out that I should go
 6 get and we should mark because
 7 since that's how you collected
 8 the documents, it might be --
 9 Q. I'll tell you what. If you could just look
 10 at -- This is the list. If you can just tell
 11 me -- When I give you a Bates number, if you
 12 can tell me which one -- the number from the
 13 corporate list --
 14 A. Like 16-A or 16-B, etc.?
 15 Q. Right. And that will make it go a lot faster.
 16 I'm looking at Bates number 1319. Which
 17 one does that correspond with?
 18 MS. CARTER: Oh, he's not going to
 19 know unless you tell him --
 20 MR. PATTY: There we go.
 21 A. The administrative assistants at Crump
 22 Elementary and Brewbaker Junior High School,
 23 that's 16-A.

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1 Q. Let's look at Bates number 1323.
 2 A. Educational specialist, office of curriculum
 3 and instruction. That was dated June 4 of
 4 2004. Educational specialist, June 4, 2004,
 5 that's 16-H.
 6 Q. Would Mr. Lowe have the educational and
 7 certification qualifications to be an
 8 educational specialist?
 9 A. Generally the posted notice would read
 10 something like at least three years successful
 11 teaching experience and endorsement in
 12 administration and supervision. That is to
 13 attract a full scale of applicants. Ed
 14 specialist positions in many instances have
 15 gone to individuals who have prior
 16 administrative certification -- I mean
 17 administrative experience, but we leave it
 18 open so that we might get a diamond in the
 19 rough.
 20 Q. So he meets the minimum --
 21 A. Yes, he does.
 22 Q. Let's go on, then.
 23 Connie Mizell, white female?

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1 A. White female.
 2 Q. The next document is 1506.
 3 A. That is May of 2005, special education
 4 teachers, so that's relative to the --
 5 MS. CARTER: It's not on that list.
 6 Those are the ones I added.
 7 A. That is basically the special education
 8 teacher positions that you inquired about at
 9 Robert E. Lee High School -- we're still under
 10 that -- and at McKee Junior High School.
 11 Q. There's one --
 12 MR. PATTY: It looks like there's
 13 only one certification with
 14 that.
 15 MS. CARTER: There is.
 16 A. This is Carlos Cherry. This was McKee Junior
 17 High School, so that probably -- This is the
 18 one that we put in here for McKee. I'm sure
 19 we have another one in there for --
 20 MS. CARTER: For Mr. Abrams.
 21 A. This is McKee Junior High School. That's the
 22 individual who filled that position, black
 23 male.

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1 Q. Bates number 1329.
 2 A. Educational technology professional
 3 development program coordinator, June of 2003.
 4 MS. CARTER: It's July of --
 5 A. Yeah, that's July of 2003. This has to be it
 6 here, the September 1 position that he alluded
 7 to as 2003 educational specialist and
 8 educational technology professional
 9 development program coordinator and Title I
 10 school-wide instructional -- There's several
 11 on here. That's 16-B.
 12 Q. Is it Kevin Todd Culpepper?
 13 A. Uh-huh (positive response).
 14 Q. White male? Black male?
 15 A. White male.
 16 Q. Angela Mangum?
 17 A. Angela Mangum, black female.
 18 Q. Will there be -- Just so I understand
 19 document-wise, will there be anything that
 20 will show -- I think you've talked about this
 21 a little bit. Will there be anything to show
 22 how their interviews went for these different
 23 positions, who the three top candidates were,

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1 any documentation of what -- how the
 2 interviews went, how they were selected,
 3 anything like that?
 4 A. Generally if they were system-level positions
 5 or above, there would be a -- there should be
 6 a paper trail documenting who the committee
 7 was recommending -- who the committee was and
 8 who the committee was recommending for a
 9 particular position. I would think that I
 10 would have the majority of those. Those are
 11 submitted to the superintendent. If she
 12 returned those to me, then I would have those,
 13 but she's not required to return them to me.
 14 But I would give her a written documentation
 15 as to these are the individuals, these are the
 16 resumes for those individuals, and this is the
 17 interview panel. We just did one like that
 18 yesterday.
 19 Q. What would that be called if we want to refer
 20 to that?
 21 A. Recommendations to the superintendent.
 22 Q. Let me show you Bates number 1340.
 23 A. This was August 18, 2003. Various

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1 administrative assistant positions.
 2 Administrative assistant, that's 16-C. That's
 3 Robert E. Lee High School and various ones.
 4 Let see. Let me see the person who got the
 5 position. Lovell Seals. No. This was Carver
 6 High School here -- the person who received
 7 the position at Carver High School. We have a
 8 whole list of individuals here who received
 9 administrative positions based on the same
 10 posted notice, and we have them checked off on
 11 here, like Lovell Seals, Darryl Washington.
 12 Q. Is that this collection starting with 1344 and
 13 going through 1362?
 14 A. Oh, yeah. These are the rest of those.
 15 MS. CARTER: That must have gotten
 16 separated.
 17 A. Lovell Seals, Darryl Washington, Deidre
 18 McRay -- Yeah, that's that whole list. All of
 19 these individuals were individuals who
 20 received administrative placement as a result
 21 of this single notice.
 22 MS. CARTER: And you're referring to
 23 Bates number 1344 through Bates

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1 number 1362.
 2 A. School-wide instructional assistants,
 3 instructional assistants -- Yeah, all of
 4 those.
 5 Q. Would an instructional assistant position be
 6 one that Mr. Lowe would have the
 7 qualifications of education certification for?
 8 A. Yes. I can give you the race and -- I
 9 recognize --
 10 Q. Go ahead.
 11 A. Lovell Seals is a black male. Darryl
 12 Washington is a black male. Deidra McRay is a
 13 black female. Virginia Browder is a black
 14 female. Mona Green is a black female. Tara
 15 Carr is a black female. Dierdra Ramsey is a
 16 black female. Barbara Sankey is a black
 17 female, and Orlean Baldwin, black female.
 18 Anissha Officer, black female; Patrick Nelson,
 19 black male; Lakisha Stokes, black female;
 20 Tamara Winston, black female.
 21 Q. Now, looking at Bates 1363 --
 22 A. Administrative assistant, specifically at
 23 Robert E. Lee High School.

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1 MS. CARTER: When you read off
2 documents, speak more clearly
3 because she's trying to take it
4 down.
5 A. Administrative assistant at Robert E. Lee,
6 16-C. This person who received the position
7 was Gloria Odutola, who is a black female.
8 Q. I'll show you Bates number 1367.
9 A. Educational specialist, office of student and
10 community services, September 10, 2003.
11 That's 16-D, and the person receiving that
12 particular position was Susan Terrell, which
13 is a white female.
14 Q. I'll show you Bates number 1371.
15 A. Positions of elementary teachers at Brewbaker
16 Intermediate and McKee Elementary Schools,
17 September 15, 2003. That would be 16-E and
18 16-F, and the individuals who received those
19 were Jennifer Turner, and I'm not sure whether
20 she's black or white, suzie Prater, who is a
21 black female. I'm not absolutely sure on
22 Jennifer Turner.
23 Q. I'll show you Bates number 1374. There may be

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1 some stuff that --
2 A. Administrative assistant and assistant
3 principals as positions become available for
4 the 2004-2005 school year, and this is to
5 begin to accumulate all interested parties in
6 administrative placements during the late or
7 the early spring of 2004. This is dated
8 February 25, 2004, and this is indicative that
9 the position at Thelma Morris -- Let me see
10 which one that may be. Administrative
11 assistant at TS Morris, that's 16-O. And
12 let's see who the other one is. That's the
13 one. That's just one, 16-O, administrative
14 assistant at TS Morris, who is a black female.
15 Q. I've got a stack here that goes 1378 through
16 1446 -- 7 -- 1447. I don't know if those go
17 with the ones you just had there or not.
18 A. Let's see. These are probably administrative
19 assistants throughout the school district. G
20 up here. So she's probably included in --
21 That's the one specifically for TS Morris, but
22 all of these are 16-G, the administrative
23 assistants position at -- beginning May 14,

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1 2004, and any and all administrative positions
2 that were available. And these are Hosea
3 Addison who went to Lanier Academic Magnet
4 Program, black male; Exzealia Baptiste, who
5 went to the alternative education program at
6 Fewes, black female; Jeri Brown, who went to
7 Robert E. Lee High School, white female;
8 Rodrick James who was hired at Chisholm
9 Elementary School, black male; Emily Little,
10 who was hired at -- Let's see if the school is
11 on here. I'm not absolutely sure on the
12 school she was placed. She's a white female,
13 Emily Little.
14 Ronald Ashley, black male, hired as the
15 administrative assistant at Booker T.
16 Washington High School; Bobby Lowe, black
17 male, hired at Floyd Elementary School; Mary
18 Markham, black female, another one that I'm
19 not absolutely sure on the school so I need to
20 make a note and let you know where she was.
21 Mary Norman, who was hired as an
22 administrative assistant at Robert E. Lee High
23 School and ultimately transferred to Floyd

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1 Middle School, white female, in both
2 capacities as the administrative assistant or
3 the assistant principal. Shanetha Paterson,
4 black female, was hired at Nixon Elementary
5 School as the assistant principal; Antoine
6 Richardson, black male, hired at Robert E. Lee
7 High School as administrative assistant;
8 Ferlisi Ross, black female -- Ferlisa Ross,
9 black female, hired at Robert E. Lee High
10 School as the assistant principal, before that
11 hired as administrative assistant at Lanier
12 High School. Both of them would probably fall
13 within this time frame.
14 Durwood Wilson, black male, hired as the
15 administrative assistant at Davis Elementary
16 School and ultimately transferred to Brewbaker
17 Junior High School. Dionne Woody, black
18 female. I think she was hired at Nixon
19 Elementary School to replace Shanetha Paterson
20 when she left, black female. And Sonya Floyd,
21 the black female who was hired for the
22 assistant position -- administrative
23 assistant's position at McKee Junior High

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- 1 School. I know my people.
- 2 Q. Did you say Sonya Floyd was a black female?
- 3 A. Black female.
- 4 Q. Bates number 1448.
- 5 A. June 4, 2004, educational specialist, office
- 6 of curriculum and instruction. June 4, 2004
- 7 educational specialist, that's 16-H. And the
- 8 person who received it was Thomas Toleston,
- 9 black male.
- 10 Q. 1450, it looks like at the bottom it says the
- 11 position was not filled.
- 12 A. Right. This is Title I program evaluator, and
- 13 it went unfilled. It was posted and we got
- 14 applicants, and then the funding for it fell
- 15 through so it was not filled.
- 16 Q. 1452.
- 17 A. Title I teacher/tutor, skills lab at Houston
- 18 Hills Junior High School. That was 16-J, and
- 19 the person who filled it was Essie Baker,
- 20 black female.
- 21 Q. Would it be unusual for a position to be
- 22 filled without the principal having any input
- 23 into who is being selected?

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- 1 A. No. We try diligently not to do that.
- 2 Q. So that would be out of the ordinary if a
- 3 position was filled before a principal was
- 4 consulted about who was going to have that
- 5 position?
- 6 A. Generally that is, yes.
- 7 Q. Let me show you Bates 1454.
- 8 A. 1454 is two-system reading specialist, office
- 9 of curriculum and instruction, June 25, 2004.
- 10 That's 16-K, and the individuals were Karen
- 11 Vann -- that's the one I alluded to in earlier
- 12 testimony -- Karen Vann, white female, and
- 13 Gloria Odutola, black female.
- 14 Q. The recommendations file you keep, will it
- 15 show why someone was picked?
- 16 A. Usually there's a rubric if there's a
- 17 committee that -- and they will generally rate
- 18 that individual based on the questions.
- 19 That's why we're so insistent that the same
- 20 questions are asked of everybody so they can
- 21 be rated. And there's --
- 22 Q. Do y'all keep the -- They ask the questions
- 23 and they take notes as to what the response is

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- 1 and how they react to the response?
- 2 A. Uh-huh (positive response). And then they
- 3 will generally be rated 1, 2, 3 or 4, whether
- 4 there was in-depth knowledge, surface
- 5 knowledge, no demonstrated knowledge, that
- 6 type of thing.
- 7 Q. And that's based on their judgment call of how
- 8 that person answers that question?
- 9 A. Exactly.
- 10 Q. What kind of training goes into instruct the
- 11 individuals of how they need to make that
- 12 evaluation?
- 13 A. Well, generally we try to get an individual
- 14 that's already in a supervisory position. We
- 15 try get a person who is a specialist to sit in
- 16 on it, or if you're selecting school reading
- 17 coaches, you might very well get a committee
- 18 that is composed of system-wide reading
- 19 coaches or -- who has already undergone the
- 20 same type of training that they are
- 21 interviewing for. We try our very best to
- 22 place those kind of people on those
- 23 positions. Anytime there's any question, then

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- 1 I might sit in just to make sure that accepted
- 2 protocol is being followed.
- 3 Q. Does that mean that there's not a specific
- 4 training that goes into this is how you should
- 5 evaluate on this rubric?
- 6 A. No. I mean, there's some subjectivity to it
- 7 as to what you hear.
- 8 Q. Like with the PEPE, I remember everybody who
- 9 had to learn how to do the PEPE, they had to
- 10 go to classes for PEPE and they had to take
- 11 tests on PEPE, and they had to see how they
- 12 evaluated compared to other people who
- 13 evaluated.
- 14 Is there anything of that nature done with
- 15 this process?
- 16 A. No.
- 17 Q. Let me show you 1469.
- 18 A. System-wide math coach specialist, Title I,
- 19 June 25, 2004. That's 16-L. We had math
- 20 specialists and reading specialists: Lamecha
- 21 James, black female; Cathy Simmons, white
- 22 female; Sheila Helms, white female. That's
- 23 it. Those were the three.

47 (Pages 185 to 188)

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1 Q. Let me show you Bates 1475.
 2 A. District resource/attendance officer, office
 3 of student and community services. That's
 4 16-M, and that position wasn't filled,
 5 although it was -- It was interviewed for, but
 6 it was not filled because the funds were not
 7 there. The resources were reallocated.
 8 Q. Bates 1476.
 9 A. Title I school-wide instructional assistants
 10 at various school locations. That's 16-N.
 11 Q. Was Mr. Lowe qualified for that position?
 12 A. That's correct. Now, the vast majority of
 13 these -- I called them out a moment ago when I
 14 was going through the list. The vast majority
 15 of these were already covered in a previous
 16 one, and then there were several -- the four
 17 at the bottom after 2004. And I'll go over
 18 those four if it's okay with you.
 19 Q. That's fine. That will work.
 20 A. Anissha Officer is a black female, and she's
 21 at Harrison. She was at Harrison. Patrick
 22 Nelson, black male, at Bellingrath. Lakisha
 23 Stokes was a black female at Seth Johnson.

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1 Here's Tamara Harvey. She's a black female
 2 and she was at McIntyre.
 3 Q. Bates number 1492.
 4 A. Administrative assistant and assistant
 5 principal positions as they become available
 6 for the 2004-2005 school term, and we have
 7 Denitta Easterling as a -- This must be one
 8 particular to Thelma Morris. Yes. That's O,
 9 administrative assistant at TS Morris
 10 Elementary School, which is 16-O, black
 11 female.
 12 Q. Bates number 1494.
 13 A. All right. This is Sonya Floyd, so this is
 14 the administrative assistant at McKee Junior
 15 High School, black female. That's 16-P. The
 16 same posted notice but 16-P, different school.
 17 Q. Okay. 1496.
 18 A. Title I school-wide instructional assistant at
 19 Southlawn Middle School, and that was Pamela
 20 Cloud, white female. And I don't think that
 21 one is listed on here. Let's see. Southlawn
 22 Middle School.
 23 After you requested all of the school-wide

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1 instructional assistants, this was the most
 2 recent school-wide instructional assistant so
 3 she was not on that original list. But she
 4 was the most recent one that we had named,
 5 white female. She's not alluded to
 6 specifically here.
 7 Q. 1499.
 8 A. Teachers, grades K through six, special
 9 education and multimedia. This is our general
 10 posted notice that we send out at the end of
 11 the year to try to attract teachers in various
 12 disciplines, and this is just a general posted
 13 notice here. And Howard Floyd -- This is six
 14 through twelve. I'd have to discern the exact
 15 school, what teacher -- Howard Floyd.
 16 MS. CARTER: I made y'all pull that
 17 one, too, because it's from this
 18 year. Right?
 19 A. That was Robert E. Lee High School, if I
 20 remember correctly. There were two special
 21 education who were selected from Robert E. Lee
 22 High School. Howard Floyd was one of the two.
 23 Q. Bates number 1501.

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1 A. This is Ronald Ashley. This says applications
 2 are now being accepted for the position of
 3 administrative assistant at Johnson
 4 Elementary, Carver Senior High, Brewbaker
 5 Junior High, Booker T. Washington Magnet High
 6 School, and any other elementary, et cetera,
 7 middle school. And this is the one where you
 8 requested documentation of the person who
 9 received the position at Booker T. Washington
 10 High School -- Magnet High School. Ronald
 11 Ashley, black male.
 12 Q. In the minutes we have, we have the personnel
 13 reports and then we have one set that's
 14 actually the minutes. For each personnel
 15 report, should there be minutes that show the
 16 approval or adoption of that personnel report
 17 separate from the personnel report?
 18 A. Yeah. There are minutes separate from -- we
 19 gave you that -- If we gave you that, it was
 20 by mistake because we didn't realize that
 21 you --
 22 Q. I assume these are personnel reports.
 23 A. I didn't realize that's what you were asking

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1 for.

2 Q. This is -- I want to just --

3 MR. PATTY: Why don't we go off the
4 record for just a second.

5 (Brief off-the-record discussion
6 followed by a brief recess.)

7 EXAMINATION

8 BY MS. CARTER:

9 Q. Mr. Barker, I don't know if -- I know you were
10 present for part of Mr. Lowe's deposition, but
11 he testified that Pam Cloud had been hired at
12 Tina Minott's school at Southlawn Middle
13 School because she was made to hire her
14 because Pam Cloud had a lawsuit.

15 Have you or has anyone with Montgomery
16 Public Schools to your knowledge ever
17 instructed Tina Minott that she had to
18 recommend Pam Cloud?

19 A. No. We definitely did not. As a matter of
20 fact in that regard, Tina recommended Pam for
21 that particular position, and later on I
22 inquired of Tina once we received the
23 notification from Mr. Lowe if she even was

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1 aware of the fact that Pam Cloud had any type
2 of legal proceeding against the board, and she
3 said her recommendation was made totally
4 oblivious to that. She did not know she had
5 any action.

6 Q. Pam Cloud has sued y'all claiming race
7 discrimination; isn't that correct?

8 A. That's correct.

9 Q. Did you block her efforts to get that
10 promotion after she sued you?

11 A. No, I did not.

12 Q. Is it a policy of you or the Montgomery Public
13 Schools to provide special consideration to
14 someone simply because they have sued you?

15 A. No, absolutely not.

16 Q. Have you to your knowledge ever undertaken
17 gathering the paperwork or doing the
18 investigative work for an individual when they
19 were trying to get an emergency certification?

20 A. No, I did not. Basically they would have to
21 already come to me with the necessary
22 coursework requirements, and then we would
23 have to be looking for an alternative

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1 certification for those individuals. But
2 that's their responsibility to present the
3 coursework requirements to us, the proof of
4 coursework requirements.

5 Q. And y'all help them do the applications and so
6 forth once they've provided that proof to you;
7 is that correct?

8 A. That is correct.

9 Q. And isn't it -- did you ever tell David Sikes
10 or Bobby Abrams that they could not hire
11 Melvin Lowe?

12 A. No.

13 Q. If Melvin Lowe had the coursework for the
14 certification or if he had just simply been
15 certified, would you have recommended that he
16 be hired for those positions?

17 MR. PATTY: Object to the form.

18 A. Gladly, because we had an extreme need in that
19 particular area.

20 Q. There is -- I don't know how we're going to
21 get through this, but there are a lot of jobs
22 that we've talked about in regards to just the
23 list of job postings and successful applicants

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1 that you went through today that have in some
2 way or another been referenced in Mr. Lowe's
3 EEOC charge, information he's given the EEOC,
4 his complaint in this lawsuit or in his
5 deposition. And so my question to you is
6 this.

7 You've testified here today that Dr. Owens
8 recommended him for the reading coach position
9 at Paterson; is that correct?

10 A. That's correct.

11 Q. And there was no question in your mind that
12 Dr. Owens wanted him?

13 A. That is correct.

14 Q. Is there any other job that you can recall
15 wherein a principal recommended to you or
16 asked you to hire Melvin Lowe wherein that
17 recommendation was not followed?

18 A. No, there is not.

19 Q. When you recommended or were involved in the
20 disciplinary matters of Mr. Lowe in 2002 when
21 he was a teacher at Southlawn, was it a
22 consideration of yours that it was the third
23 year in a row that you had had to deal with

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1 Mr. Lowe in regards to allegations and how he
 2 handled children?
 3 MR. PATTY: Object to the form.
 4 A. It was. I knew that I had investigated two
 5 previous charges with regard to mishandling of
 6 students, and it factored into my decision
 7 with regard to the recommendation that I made
 8 to the superintendent.
 9 Q. After he was non-renewed at the end of that
 10 year, he worked in Bullock County a year; is
 11 that correct?
 12 A. Yes. To my understanding, yes.
 13 Q. And then Dr. Carter recommended to the board
 14 that he be hired back at Montgomery Public
 15 Schools, correct?
 16 A. Yes. After school had started in the 2003
 17 school year.
 18 Q. This might be an unfair question, and I should
 19 have warned you about it.
 20 Give us an idea of how many people or
 21 teachers in the school system you would say,
 22 if you can, that have administrative or
 23 supervision certifications but are not serving

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1 in administrative or supervisory capacities.
 2 A. It would be a guess, but there are numerous
 3 ones. We generally on the average run
 4 anywhere from 30 to 50 applicants through that
 5 general screening process each of the last two
 6 or three years. So probably a tenth of those
 7 actually or maybe as many as 20 percent of
 8 them actually get placed, and then the next
 9 year we go through the same process. So I
 10 would venture to say there are numerous
 11 individuals with the certification out there
 12 who have not been placed in an
 13 administrative-type position.
 14 Q. Is there any type of requirement on behalf of
 15 Montgomery Public Schools that the person
 16 interviewing for a job with the most education
 17 must be hired?
 18 A. No, there's no such requirement.
 19 Q. You've been asked questions today about
 20 Denitta Easterling who, if I understand the
 21 testimony correctly, served as a summer school
 22 principal one summer when her certification
 23 was not actually completed until August of

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1 that year.
 2 A. That's correct.
 3 Q. Did the school board vote to hire or approve
 4 her hiring of summer school that year? Was
 5 that school board action?
 6 A. I do not recall whether that was presented to
 7 the school board or not. That was a position
 8 that was actually manned by the state of
 9 Alabama. I would not have thought that it
 10 would have gone through Montgomery Public
 11 Schools school records because they were using
 12 our site, but they were paying the funds and
 13 they were doing the actual hiring.
 14 Q. Did anybody ever tell you that they wanted to
 15 hire Melvin Lowe for that position?
 16 A. No.
 17 Q. To your knowledge who recommended or thought
 18 that Denitta needed to take that job or should
 19 take that job for the summer?
 20 A. I would think that it would have been the
 21 school principal there, Sophia Johnson.
 22 Q. And what is her race?
 23 A. She's a black female.

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1 Q. Have you ever told anybody that they had to
 2 hire a woman or a female in an administrative
 3 position at their school or at any position at
 4 their school?
 5 A. No.
 6 Q. Have you ever told anybody that they had to
 7 hire a white or black applicant at their
 8 school?
 9 A. No.
 10 Q. When you got word in the summer of 2005 that
 11 Mr. Lowe had communicated with Dr. Purcell
 12 that he felt like there were some issues of
 13 retaliation, did you immediately contact us to
 14 seek advice about how to handle that?
 15 A. Yes, I did.
 16 Q. Did you make any special efforts on behalf of
 17 the non-tenured teachers that left Daisy
 18 Lawrence with Mr. Lowe -- I think there were
 19 two other -- did you make any special requests
 20 of principals to hire them or tell principals
 21 they had to recommend that they be hired?
 22 A. No, I did not. Those individuals were advised
 23 that they were to apply for any position in

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1 the school district that was vacant and that
2 every consideration would be given to try to
3 place them if they were recommended by a
4 principal for those particular positions. But
5 other than that, no other assurances, no other
6 contact from my office that I'm aware of
7 happened in the placement of those three
8 individuals.
9 Q. Last thing. In regards to the reading coach
10 positions, if I understand correctly, there
11 are ten-month reading coach positions and then
12 there are nine-month reading coach positions.
13 A. That's correct.
14 Q. And the nine-months positions are Title I
15 resources?
16 A. Yes.
17 Q. Correct?
18 A. That's correct.
19 Q. And Daisy Lawrence was a Title I school?
20 A. Daisy Lawrence was a Title I school in that
21 the population, although it was somewhat
22 transient, the vast majority of those students
23 came from at-risk population Title I schools.

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1 that there was a letter from you indicating
2 that, yes.
3 Q. Did you discuss that with the superintendent?
4 A. No, I did not.
5 Q. Did you undertake any investigation of that
6 claim?
7 A. No, I did not.
8 Q. Do you know if anybody with the school did?
9 A. No.
10 Q. No, you don't know or no, nobody did?
11 A. Nobody did to my knowledge.
12 MR. PATTY: That's all.
13 (Deposition concluded at
14 approximately 5:50 p.m.)
15
16 *****
17
18 FURTHER DEPONENT SAITH NOT
19
20 *****
21
22 REPORTER'S CERTIFICATE
23 STATE OF ALABAMA:
MONTGOMERY COUNTY:
I, Pamela A. Wilbanks, Registered
Professional Reporter and Commissioner for the State

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1 Q. And Mr. Lowe -- I know this is an issue or
2 part of his allegation, but as far as
3 Montgomery Public Schools is concerned, the
4 contract he signed was for a teacher/tutor at
5 that school, correct?
6 A. That's correct.
7 Q. And if he had been a reading coach at that
8 school, it still would have been a nine-month
9 position; is that correct?
10 A. That's correct.
11 Q. Even if some of the duties that he performed
12 fell under the duties that are typically for a
13 reading coach?
14 A. That's correct.
15 MS. CARTER: I don't have anything
16 else.
17 EXAMINATION
18 BY MR. PATTY:
19 Q. Were you aware of my letter to Spud Seale the
20 end of the summer of 2005 about Mr. Lowe not
21 being blocked for positions in the school that
22 summer?
23 A. I think I remember being made aware of that,

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1 of Alabama at Large, do hereby certify that I
2 JIMMY BARKER
3 who was first duly sworn by me to speak the truth,
4 the whole truth and nothing but the truth, in the
5 matter of:
6 MELVIN LOWE,
7 Plaintiff,
8 Vs.
9 MONTGOMERY COUNTY BOARD OF
10 EDUCATION; VICKIE JERNIGAN,
11 MARK LABRANCE, TOMMIE MILLER,
12 MARY BRIERS, DAVE BORDEN,
13 HENRY A. SPEARS and BEVERLY ROSS,
14 in their official capacities as
15 members of the Montgomery County
16 Board of Education; and DR. CARLINDA
17 PURCELL, in her official capacity as
18 Superintendent of the Montgomery
19 County
20 Board of Education,
21 Defendants.
22 In The U.S. District Court
23 For the Middle District of Alabama

Page 205

1 Northern Division
2 2:05-CV-0495
3 on Monday, January 23, 2006.

4 The foregoing 204 computer printed pages
5 contain a true and correct transcript of the
6 examination of said witness by counsel for the
7 parties set out herein. The reading and signing of
8 same is hereby waived.

9 I further certify that I am neither of kin
10 nor of counsel to the parties to said cause nor in
11 any manner interested in the results thereof.

12 This 3rd day of February, 2006.
13
14
15
16
17
18

19 Pamela A. Wilbanks, Registered
20 Professional Reporter and
21 Commissioner for the State
22 of Alabama at Large.
23

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